

ROCHESTER CITY COUNCIL

REGULAR MEETING

FEBRUARY 17, 2009

Present - President Santiago, Councilmembers Conklin, Lightfoot, McFadden, Miller, Palumbo, Pritchard, Spaul, Warren - 9.

Absent - None - 0.

The Council President requested the Council to rise for a Moment of Silence.

Pledge of Allegiance to the Flag of the United States of America.

Recognition Ceremony

Retirement:

DCD

*Kenneth R. Bargy

DES

Richard J. Bondi

Eric E. Carlson

*Elmer P. Forte

*Louie J. Guilmette

RPD

* Thomas Robert Brice

*Cynthia Herriott-Sullivan

*Karen D. MacDonald

Michael R. Wood

**Not attending meeting.*

APPROVAL OF THE MINUTES

By Councilmember Lightfoot

RESOLVED, that the minutes of the Regular Meeting of January 20, 2009 be approved as published in the official sheets of the Proceedings.

Passed unanimously.

COMMUNICATIONS FROM THE MAYOR, COUNCIL PRESIDENT, CORPORATE OFFICERS AND OTHERS.

The following communications are hereby directed to be received and filed:

The Mayor submits the following:

Administrative Cancellation or Refund of Erroneous Taxes and Charges 3949-7

Request For Proposal Sale (2) 3950-7, 3951-7

Quarterly Reports 3952-7

Schedule of Revenues and Expenditures

Claims Reports

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Delinquent Receivables
Public Disclosure-HOME Participation 3953-7

THE COUNCIL PRESIDENT --- PRESENTATION AND REFERENCE OF PETITIONS AND
REMONSTRANCES.

491 signatures regarding judicial warrants. Petition No. 1638

PUBLIC HEARINGS.

Pursuant to law public hearing will now be had on the following matter:

Local Improvement Ordinance - Snow Removal At The Public Market Int. No. 46 No speakers.

Local Improvement Ordinance - Security At The Public Market Int. No. 47 No speakers.

Local Improvement Ordinance – Care And Embellishment Of Various Neighborhood Street Malls For
2009-10 Int. No. 11 No speakers.

INTRODUCTION OF AND ACTION UPON LOCAL LAWS, ORDINANCES AND RESOLUTIONS

TO THE COUNCIL

Ladies and Gentlemen:

Ordinance No. 2009-28
Re: High Falls Brewing Company, Tax
Delinquency Agreement

Transmitted herewith for your approval is legislation authorizing the City to enter into an agreement for the payment of taxes, water bills and Section 108 loans relating to the High Falls Brewing Company, LLC.

High Falls is the owner of 39 parcels of real property located within the City (a list of the parcels is set forth in the proposed legislation) that are used in connection with its brewing business. High Falls is now unable to pay its obligations or to continue as an independent entity and owes the City for taxes and water pursuant to an existing tax agreement (\$4,242,598 in principal and \$1,406,754 in interest) and for the 2008-09 tax year (\$287,019 in taxes and \$211,043 for water).

High Falls also has the following outstanding City of Rochester U.S. Department of Housing & Urban Development Section 108 loans ("Section 108" loans) with the City:

1. An equipment loan with outstanding principal of \$766,666, with past due principal and interest of \$102,426; and
2. A real estate loan with remaining principal of \$2,328,714, with past due principal and interest of \$123,127.97.

This legislation will allow the City to enter into an agreement to facilitate the purchase of the assets of High Falls by KPS Capital Partners, LC or an entity owned by it. KPS will pay the delinquent 2008-09 High Falls Brewing Company, LLC water and tax bills at closing and assume and pay current the Section 108 loans. The agreement will modify the existing tax agreement with High Falls Brewing Company, LLC to provide that the amount outstanding will be due at a future date with the provision that it can be prepaid at a predetermined discount rate that would result in a payment of \$500,000 if prepaid in three years. Additional provisions will continue the tax lien status in the event of liquidation or bankruptcy or failure to timely pay current tax or water charges.

An agreement with the same substantive terms covering taxes and pure waters charges in similar amounts will be entered into by Monroe County. These agreements recognize the financial condition of High Falls and the limited ability of the City to collect the amounts due. Without such agreements, the brewery will be unable to continue to operate. High Falls Brewing Company, LLC is currently the fifth-largest brewery

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in the U.S. and the City's largest water customer. It currently employs 300 people, of whom 100 are City residents.

Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-28
(Int. No. 66)

Authorizing A Tax Delinquency And Section 108 Loan Agreement
For The High Falls Brewing Company Properties

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Council hereby authorizes the Mayor to enter into an agreement with KPS Capital Partners, LC, or a new entity owned by it to own the assets of the High Falls Brewing Company, LLC, relating to past due taxes, water payments and Section 108 loan repayments for the following High Falls Brewing Company, LLC properties:

<u>Address</u>	<u>S.B.L.#</u>
107 St. Bridgets Dr.	106.540-0001-010 000 0000 JR
75 Martin St.	106.540-0001-022 001 0000 MR
515 St. Paul St.	106.540-0001-034 000 0000 NZ
555 St. Paul St.	106.540-0001-035 000 0000 OS
565 St. Paul St.	106.540-0001-036 000 0000 PL
587 St. Paul St.	106.540-0001-037 000 0000 QE
595 St. Paul St.	106.540-0001-038 000 0000 QX
481R St. Paul St.	106.610-0001-025 000 0000 ND
39 Curtice St.	106.620-0001-001 000 0000 JG
499-507 St. Paul St.	106.620-0001-002 000 0000 JZ
495 St. Paul St.	106.620-0001-003 000 0000 KS
479 St. Paul St.	106.620-0001-004 001 0000 MH
30 Dowling Pl.	106.620-0001-004 002 0000 ND
18 Dowling Pl.	106.620-0001-005 001 0000 NA
14 Dowling Pl.	106.620-0001-005 002 0000 NW
471 St. Paul St.	106.620-0001-006 000 0000 MX
7 Cataract St.	106.620-0001-033 001 0000 NQ
13 Cataract St.	106.620-0001-034 000 0000 NN
395 St. Paul St.	106.620-0001-035 000 0000 OG
8 Cataract St.	106.620-0001-036 000 0000 OZ
409 St. Paul St.	106.620-0001-037 000 0000 PS
12-14 Cataract St.	106.620-0001-038 000 0000 QL
16 Cataract St.	106.620-0001-039 000 0000 RE
18-22 Cataract St.	106.620-0001-040 000 0000 LH
28 Cataract St.	106.620-0001-041 000 0000 MA
32 Platt St.	106.620-0001-042 000 0000 MT
25 Cataract St.	106.620-0001-043 000 0000 NM
26 Cataract St.	106.620-0001-045 000 0000 OY
449 St. Paul St.	106.620-0001-047 000 0000 QK
419 St. Paul St.	106.620-0001-048 000 0000 RD
445 St. Paul St.	106.620-0001-049 000 0000 RW
461 St. Paul St.	106.620-0001-050 000 0000 LZ
3 Dowling Pl.	106.620-0001-051 000 0000 MS
7 Dowling Pl.	106.620-0001-052 000 0000 NL
11 Dowling Pl.	106.620-0001-053 000 0000 OE
15 Dowling Pl.	106.620-0001-054 000 0000 OX
19 Dowling Pl.	106.620-0001-055 000 0000 PQ
475 St. Paul St.	106.620-0001-056 000 0000 QJ
8-28 Ward St.	106.630-0001-016 000 0000 OA

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Section 2. The agreement shall provide that KPS Capital Partners, LC, or a new entity owned by it to own the assets of the High Falls Brewing Company, LLC, will pay at the closing of the sale of the assets of the High Falls Brewing Company, LLC the delinquent 2008-09 High Falls water and tax bills and assume and pay current the Section 108 loans. The agreement will modify the existing tax agreement with High Falls Brewing Company, LLC to provide that the amount outstanding will be due in the future with the provision that it can be prepaid at a predetermined discount rate that would result in a payment of \$500,000 if prepaid in three years. Additional provisions will continue the tax lien status in the event of liquidation or bankruptcy or failure to timely pay current tax or water charges.

Section 3. The agreement shall contain such additional terms and conditions as the Mayor deems to be appropriate.

Section 4. This ordinance shall take effect immediately.

Passed unanimously.

REPORTS OF STANDING COMMITTEES AND ACTION THEREON

By Councilmember Conklin
February 17, 2009

To the Council:

The Finance Committee recommends for Adoption the following entitled legislation:

Int. No. 57 - Establishing Maximum Compensation For A Professional Services Agreement For State Lobbying Services

Int. No. 60 - Resolution Approving An Appointment To The Cultural Center Commission

Int. No. 64 - Local Law Amending The City Charter With Respect To The Salary Of The Mayor

Int. No. 65 - Local Law Amending The City Charter With Respect To The Salary Of Members Of The City Council

The following entitled legislation is being Held in committee:

Int. No. 30 - Local Law Amending The City Charter With Respect To Inspection Warrants, As Amended

Int. No. 31 - Amending The Municipal Code With Respect To Inspection Warrants, As Amended

Respectfully submitted,
Carolee A. Conklin
Lovely A. Warren
Gladys Santiago
FINANCE COMMITTEE

Received, filed and published

TO THE COUNCIL
Ladies and Gentlemen:

Re: Ordinance No. 2009-29
Agreement - Bolton-St. Johns, LLC,
State Lobbying Services

February 17, 2009

Transmitted herewith for your approval is legislation establishing \$25,000 as maximum compensation for an agreement with Bolton-St. Johns, LLC, Albany, NY to provide state lobbying services. The cost for this agreement will be funded from the 2008-09 Budget of the Mayor's Office. The term of this contract will be for five months, February through June 2009. The \$5,000 monthly fee is inclusive of lobbying services and all incidentals, including travel.

It is crucial in this economy that the City's interests are aggressively represented in Albany. Lobbying services will help in the ongoing efforts of this Administration to ensure that Rochester receives its fair share of state aid, despite the State's fiscal constraints. This is especially important given the anticipated pass-through allocations of Federal stimulus funds for infrastructure projects.

A request for proposals for these services was issued in 2006; Bolton-St. John's proposal was ranked second by the review committee. The contract was awarded to the top-ranked firm of Hinman Straub which provided lobbying services during 2006 and 2007. In 2008, the City did not use a state lobbyist. With the decision to reinstate lobbying services, Bolton-St. John is recommended based on their ability to more closely match the City's current needs, based on recent changes in state government leadership in both the Governor's office and in the legislature.

The firm will provide the following services:

1. Draft and arrange for the introduction of the City's legislative proposals to the City's Albany delegation, committee chairs, Senate and Assembly leaders, the Governor, and staff.
2. Identify and review all bills that could affect the City and, as directed by the City, present comments concerning these bills.
3. Review and analyze the annual State budget with respect to its impact on the City; monitor the appropriation phase of the budgetary process, lobbying to ensure Rochester receives necessary and suitable funding.
4. Communicate, through general and customized weekly newsletters, updates on legislation affecting Rochester. Updates will be provided daily at crucial times in the legislative process.
5. Facilitate relationships with legislative members and champion issues important to Rochester; arrange and coordinate meetings between State and City officials; prepare materials for these meetings; accompany City staff to such meetings.
6. Coordinate the above activities with the NY Conference of Mayors and other "Big 5" cities, as necessary.
7. Provide advice on meeting legislative and regulatory objectives; develop a written strategic plan.
8. Provide general advice on legislative and regulatory matters.

Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-29
(Int. No. 57)

Establishing Maximum Compensation For A Professional Services
Agreement For State Lobbying Services

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The sum of \$25,000, or so much thereof as may be necessary, is hereby established as the compensation to be paid for a professional services agreement between the City and Bolton-St. Johns,

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LLC for the provision of State lobbying services. Said amount shall be funded from the 2008-09 Budget of the Office of the Mayor.

Section 2. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL

Ladies and Gentlemen:

Re: Resolution No. 2009-3
Appointment - Cultural
Center Commission

Transmitted herewith for your approval is a resolution appointing the following person to the Cultural Center Commission:

John L. Goldman
10-6 Selden Street
Rochester, N.Y. 14605

The members of the Cultural Center Commission are jointly appointed by the City Council and Monroe County Legislature. Mr. Goldman is a resident of the Grove Place neighborhood, which adjoins the Cultural District. He will fill the unexpired term of Karen Noble Hanson, who was formerly a resident of Grove Place, but who has relocated and resigned from the Commission.

This appointment will expire on September 30, 2010. Action at this time will allow Mr. Goldman to participate in the upcoming meetings of the Commission. The County Legislature approved this appointment at its meeting of February 3. A copy of Mr. Goldman's resume is on file in the City Clerk's Office.

Respectfully submitted,
Gladys Santiago
President

Resolution No. 2009-3
(Int. No. 60)

Resolution Approving An Appointment To The Cultural Center
Commission

BE IT RESOLVED, by the Council of the City of Rochester as follows:

Section 1. The Council hereby approves the appointment of the following person to the Cultural Center Commission to fill the unexpired term of Karen Noble Hanson through September 30, 2010:

John L. Goldman
10-6 Selden Street
Rochester, N.Y. 14605

Section 2. This resolution shall take effect immediately.

Adopted unanimously.

TO THE COUNCIL

Ladies and Gentlemen:

Re: Local Law No. 1 and
Local Law No. 2
Charter Amendment - Salaries

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Transmitted herewith for your approval is legislation amending the City Charter to enable the Mayor or any Councilmember to decline salary adjustments prescribed in the Charter.

As you know, in December 2005, the City Council established the salary of the Mayor for 2006 at \$120,716, the same amount it had been in 2005. As has been our practice, annual cost-of-living adjustments were also established to take place in January 2007, 2008 and 2009. The same adjustments were established for the salaries of City Council.

As the City is facing significant fiscal challenges for the coming year, and in the context of the larger global recession, several Councilmembers as well as the Mayor indicated their interest in eliminating the scheduled cost of living adjustment. However, New York State law requires a mandatory referendum prior to reducing the salary of the Mayor or Council during their terms.

The proposed Charter amendments will provide a legally acceptable mechanism for the elected officials to decline their individual salary adjustments while leaving the Charter's cost of living adjustments unchanged, thus avoiding a conflict with the applicable State laws.

Respectfully submitted,

Carolee A. Conklin
Chair
Finance Committee

Carla M. Palumbo
Member
Finance Committee

Lovely A. Warren
Member
Finance Committee

Local Law No. 1
(Int. No. 64)

Local Law Amending The City Charter With Respect To The Salary
Of The Mayor

BE IT ENACTED, by the Council of the City of Rochester as follows:

Section 1. Chapter 755 of the Laws of 1907, entitled "An Act Constituting the Charter of the City of Rochester", as amended, is hereby further amended by amending Section 3-3.1, Salary of the Mayor, by adding to the end of Subsection C thereof the following new sentence:

The Mayor may decline to accept a salary increase through written notification to the Director of Finance.

Section 2. This local law shall take effect immediately.

Passed by the following vote:

Ayes - President Santiago, Councilmembers Conklin, Lightfoot, Miller, Palumbo, Pritchard, Spaul, Warren - 8.

Nays - Councilmember McFadden - 1.

Local Law No. 2
(Int. No. 65)

Local Law Amending The City Charter With Respect To The Salary
Of Members Of The City Council

BE IT ENACTED, by the Council of the City of Rochester as follows:

Section 1. Chapter 755 of the Laws of 1907, entitled "An Act Constituting the Charter of the City of Rochester", as amended, is hereby further amended by amending Section 5-2 thereof, relating to members of the Council, by adding to the end thereof the following new sentence:

A Councilmember may decline to accept a salary increase through written notification to the Director of Finance.

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Section 2. This local law shall take effect immediately.

Passed by the following vote:

Ayes - President Santiago, Councilmembers Conklin, Lightfoot, Miller, Palumbo, Pritchard, Spaul, Warren - 8.

Nays - Councilmember McFadden - 1.

Councilmember Conklin moved to discharge Int. No. 30 and 31 from committee.

The motion was seconded by Councilmember Palumbo.

The motion was adopted by the following votes:

Ayes - President Santiago, Councilmembers Conklin, Lightfoot, Miller, Palumbo, Pritchard, Spaul, Warren - 8.

Nays - Councilmember McFadden - 1.

Councilmember Conklin moved to amend Int. No. 30.

The motion was seconded by Councilmember Palumbo.

The motion was adopted by the following votes:

Ayes - President Santiago, Councilmembers Conklin, Lightfoot, McFadden, Miller, Palumbo, Pritchard, Spaul, Warren - 9.

Nays - None - 0.

TO THE COUNCIL

Ladies and Gentlemen:

Local Law No. 3 and
Ordinance No. 2009-30

Re: Amendments - Judicial Warrants

Transmitted herewith for your approval are a series of amendments to Ints. 30 and 31 in regard to Judicial Inspection Warrants. As you know, these items were submitted to the Council on January 6 and were assigned to the Finance Committee. Subsequently, the Finance Committee held a public meeting to gather testimony on the proposal. A large group of people participated in that meeting and additional written testimony was received as well.

The proposed amendments are meant to address some of the public comments and to clarify the intent of the legislation in several areas. The amendments are intended to:

- Clarify that the City inspections are only for the purposes of enforcing those codes that the City is responsible for enforcing.
- Require that the notice of intent to conduct an inspection include notice to tenants that they may be protected from retaliation by the landlord pursuant to Section 223-b of the New York State Real Property Law.
- Establish a limit of 90 days on the time that may elapse between the notice of intent to conduct an inspection and the inspection warrant application.

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- Require that in cases where a Police Officer is being requested to accompany the inspectors for safety reasons, those reasons are detailed in the warrant application. In the absence of such specific authorization, a Police Officer may not enter any interior portion of the building not open to the public unless an emergency exists.
- Clarify that the mere refusal of an owner and/or occupant of a residential unit to allow an inspector access to the property, or the condition of the area in which the residential unit is located, cannot be the sole reason for the issuance of a warrant.
- Require that a report be submitted to City Council after six months of the implementation of the program, and annually thereafter, providing details on applications for warrants, execution of warrants, and overall implementation of the warrant program.

These amendments should ensure that the Judicial Warrant program is carried out within the constraints of constitutional and legislative frameworks and that it carefully balances the needs of the Administration to enforce duly executed laws with the privacy rights of our citizens and property owners.

Respectfully submitted,
Carolee A. Conklin, Chair
Finance Committee

Local Law No. 3
(Int. No. 30, As Amended)

Local Law Amending The City Charter With Respect To Inspection
Warrants

BE IT ENACTED, by the Council of the City of Rochester as follows:

Section 1. Chapter 755 of the Laws of 1907, entitled "An Act Constituting the Charter of the City of Rochester", as amended, is hereby further amended by amending Article I by designating the current Sections 1-1 through 1-8 as Part A, General Provisions, and by adding thereto a new Part B, Judicial Warrants for Inspections of Premises, to include the current Section 1-9, Inspections for code compliance, as amended and renumbered as Section 1-11 herein, and the following new Sections 1-9, 1-10 and 1-12 through 1-25; which Part B shall read in its entirety as follows:

Part B. Judicial Warrants for Inspections of Premises.

§ 1-9. Purpose and authority.

In order to promote the health and safety of its residents and visitors, the City enforces numerous laws relating to the construction, alteration, maintenance, repair, operation, use, condition or occupancy of a premises. These laws include laws such as the New York State Uniform Fire Prevention and Building Code, which the City is required to enforce on behalf of the State. In many instances, enforcement is possible only through inspections conducted in or on the premises itself. Most owners and occupants of a premises consent to necessary inspections and, when violations are found, promptly make corrections necessary to bring the premises into compliance with applicable codes. However, the City has recently encountered increasing numbers of owners and/or occupants who do not allow, fail to schedule, or unduly delay inspections. The City has particularly found this to be the case in the enforcement of provisions significantly affecting the health or safety of City tenants, such as the Lead-Based Paint Poisoning Prevention Code, found in Article III of Chapter 90, the Property Conservation Code. The City cannot allow the enforcement of these important health and safety codes to rest upon the desires of the owner or occupant of the premises. The enforcement of these provisions is especially important to a large number of residents of the City, such as children, the disabled and the elderly, who may be unable to recognize the dangers in their premises or to take the necessary steps to protect themselves. The United States Supreme Court and the New York State Court of Appeals have recognized the right of persons to require a warrant for inspections of premises in certain circumstances and have established standards for the issuance of such warrants. While New York Courts have issued warrants for the inspection of premises on the basis of the Supreme Court and New York Court of Appeals decisions and have applied in part the procedures for search warrants established in the Criminal Procedure Law, New York State statutes do not establish specific procedures or requirements for the issuance of warrants for inspections of premises. In the absence of State statutes, the City wishes to establish guidelines which meet constitutional requirements

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for the issuance by the courts of judicial warrants for the inspection of premises within the City. Such guidelines are particularly appropriate in the City due to absentee ownership of a significant number of premises, the age of City housing, and the difficulty in obtaining consent for necessary inspections. The guidelines will provide a process for issuing such warrants and will apprise landlords, tenants and all persons of the procedures and requirements to be followed by the City in obtaining and executing inspection warrants. These provisions will promote the health, safety and welfare of the City and all of its residents and visitors. Authority for the adoption of such guidelines is found in, but not limited to, the home rule and police powers found in Article IX, Section 2 of the New York State Constitution, Section 10 of the Municipal Home Rule Law and Section 20 of the General City Law, and are necessary for the proper administration and enforcement by the City of the Uniform Fire Prevention and Building Code as required in 19 NYCRR Part 1203, promulgated pursuant to Section 381 of the Executive Law.

§ 1-10. Definitions.

As used in this Part, the following terms shall have the meanings indicated:

DESIGNATED CITY OFFICER OR EMPLOYEE - An officer or employee of the City of Rochester who occupies a position in which he or she is authorized by New York State Law or the City Charter of the City of Rochester to enforce the **PROPERTY CODES** in the City.

INSPECTION WARRANT or JUDICIAL WARRANT FOR INSPECTION OF PREMISES - A written order signed by a Judge of the Rochester City Court, Monroe County Court or New York State Supreme Court directing a designated City officer or employee to conduct an inspection of a premises for civil enforcement purposes only in conjunction with the administration and enforcement of the **PROPERTY CODES**, which inspection may include the photographing, recording or non-destructive testing of property or physical conditions found thereon or therein.

PREMISES - A lot, plot or parcel of land, together with the buildings and structures thereon.

PROPERTY CODE - The Property Conservation Code, Building Code, Plumbing Code, Fire Prevention Code, Zoning Code, Health Ordinance, New York State Uniform Fire Prevention and Building Code, or any other Federal, State, County or City law, ordinance, rule or regulation relating to the construction, alteration, maintenance, repair, operation, use, condition or occupancy of a premises located within the City, which law, ordinance, rule or regulation is enforced by the City.

§ 1-11. Inspections for code compliance.

No local law or ordinance of the City shall be construed to require a person to consent to an inspection of a premises in order to determine compliance with applicable code provisions. However, this provision shall not be construed to remove the obligation of a person to apply for and secure a required license, permit, certificate or other City approval relating to the construction, alteration, maintenance, repair, operation, use, condition or occupancy of a premises. When applying for a license, permit, certificate or other City approval which calls for an inspection, a person shall have the right to decline to consent to the inspection, and the issuing authority may, without further notice to the applicant, apply for an inspection warrant to conduct the required inspection. However, if the premises is occupied, notice to the occupant or other person with apparent right of possession in accordance with § 1-14 shall be required.

§ 1-12. Right of entry.

In the performance of official duties, subject to the further requirements established in this Part and the obtaining of a warrant when the same is constitutionally required, designated City officers or employees may enter premises to enforce the Property Codes.

§ 1-13. Entry without notice or inspection warrant.

This Part shall not be construed to require either an inspection warrant or prior notice to enter or inspect a premises under circumstances in which a warrant is not constitutionally required.

§ 1-14. Notice of intent to conduct inspection.

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Before an application may be made for an initial inspection warrant, the designated City officer or employee must give prior notice of his or her intent to conduct an inspection to the occupant or other person with apparent right of possession or, in the case of an unoccupied premises, to the owner, the owner's agent or other person in apparent control of the premises. No notice is required to an applicant who has declined to consent to an inspection when applying for a license, permit, certificate or other City approval which calls for an inspection. No further notice is required before additional inspection warrants are sought to inspect a premises, including warrants to re-inspect a premises to determine if cited violations have been corrected, or additional warrants necessitated by the expiration of a warrant before an inspection could be completed, in the same case or any cases relating to the same premises and arising concurrently.

§ 1-15. Contents of notice.

The notice of intent to conduct an inspection shall:

- A. State the date and time at which the designated City officer or employee will be present to conduct an inspection;
- B. Inform the person notified that he or she may reschedule the inspection to a reasonable date and time by contacting the designated City officer or employee before the stated date; [and]
- C. Advise that if the inspection is not allowed to be conducted, the designated City officer or employee may make an application to Rochester City Court, Monroe County Court or New York State Supreme Court for an inspection warrant; and
- D. Advise that a tenant may be protected against retaliation by a landlord for making a good faith complaint of code violations pursuant to Section 223-b of the New York State Real Property Law.

§ 1-16. Service of notice when premises is occupied.

If the premises is occupied, the notice of intent to conduct an inspection must be either sent by first class mail or personally delivered to the occupant or person with apparent right of possession. The notice shall be addressed to the occupants of record if their names are provided to the City by the owner in writing, otherwise notice shall be sufficient if addressed to the "occupant" of the particular unit.

§ 1-17. Service of notice when premises is unoccupied.

If the premises is unoccupied, the notice of intent to conduct an inspection must be mailed by first class mail to the owner's tax mailing address for the premises or be personally served upon the owner.

§ 1-18. Inspection warrant application with prior notice.

A Department Head or a designated City officer or employee authorized by the Department Head may make an application to Rochester City Court, Monroe County Court or New York State Supreme Court for an inspection warrant to conduct an inspection after notice of intent to conduct an inspection has been given, if the person notified does not allow, fails to schedule, or unduly delays the inspection.

§ 1-19. Inspection warrant application without prior notice.

A Department Head or a designated City officer or employee authorized by the Department Head may apply for an initial inspection warrant without giving the prior notice of intent to conduct an inspection as required by §1-14 and §1-20 if there is credible evidence to believe that a violation of a Property Code exists which immediately and significantly endangers the health or safety of any person.

§ 1-20. Authority to seek inspection warrant.

A Department Head or a designated City officer or employee authorized by the Department Head may make an application in accordance with this Part to Rochester City Court, Monroe County Court or New York State Supreme Court for an inspection warrant to conduct an inspection or to take any other authorized action to administer and enforce the Property Codes. The Corporation Counsel shall send

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written notice of at least 5 days to the owner and occupant, if any, of a premises before an application is made for an inspection warrant.

§ 1-21. Factors to be considered when applying for an inspection warrant.

A Department Head shall consider whether one or more of the following guidelines have been met in determining whether to authorize an application for issuance of an inspection warrant:

- A. There is credible evidence to believe that the construction, alteration, maintenance, repair, operation, use, condition or occupancy of the subject premises is in violation of any applicable Property Code; or
- B. Reasonable legislative or administrative standards for conducting an inspection in conjunction with the administration and enforcement of the Property Codes are satisfied with respect to the subject premises and the occupants and/or the owner have not allowed, have failed to schedule, or have unduly delayed the inspection of the premises; or
- C. An application for a Certificate of Occupancy, Business Permit, permit, license or other similar instrument which authorizes the construction, alteration, maintenance, repair, operation, use, condition or occupancy of the premises has been submitted and the occupants and/or the owner have not allowed, have failed to schedule, or have unduly delayed the inspection of the premises; or
- D. A re-inspection of the premises is necessary to determine whether previously cited violations of the Property Codes have been corrected, and the occupants and/or the owner have not allowed, have failed to schedule, or have unduly delayed the inspection of the premises.

§ 1-22. Applications for inspection warrants.

The application for an inspection warrant must:

- A. Be in writing, stating the name of the Court to which it is addressed;
- B. State the name, department, title and code enforcement authority of the Department Head or the designated City officer or employee authorized by the Department Head who is the applicant;
- C. State the date of the making of the application;
- D. Describe the limited nature and purpose of the inspection and the manner in which the inspection is to be conducted in order to assure that any observations, findings and evidence obtained through execution of the inspection warrant shall be restricted to use in civil enforcement proceedings only;
- E. Identify the premises to be entered and inspected in sufficient detail and particularity so that the designated City officer or employee executing the inspection warrant may readily ascertain the premises;
- F. In cases where prior notice of intent to conduct an inspection is required, provide specific information showing how and when notice has been given, which most recent notice shall have been given within 90 days of the application for the inspection warrant, and how the inspection has not been allowed, has not been scheduled, or has been unduly delayed by the person notified;
- G. State facts based upon personal knowledge of the applicant or upon information and belief, provided that in the latter event the sources of such information and the grounds of such belief are stated, sufficient to demonstrate probable cause for the issuance of an inspection warrant;
- H. Where there are specific safety concerns directly related to the premises to be inspected, its owners or occupants, detail such safety concerns in order to request that a police officer

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provide protection to the designated City officer or employee during the execution of the inspection warrant;

- I. Be subscribed and sworn to by the applicant; and
- [I] J. Request that the Court issue an inspection warrant directing an inspection of the subject premises for civil enforcement purposes only, which inspection may include the photographing, recording or non-destructive testing of property or physical conditions found thereon or therein, subject to such limitations and restrictions as may be provided by the Court.

§ 1-23. Issuance of an inspection warrant.

A. Determination of application.

- (1) In determining an application for an inspection warrant, the Court may examine, under oath, any person whom it believes may possess pertinent information. Any such examination may be recorded or summarized on the record by the Court.
- (2) If the Court is satisfied that there is probable cause to issue an inspection warrant, it may grant the application and issue an inspection warrant directing an inspection of the premises described in the application, subject to such limitations and restrictions as may be provided by the Court. For inspections of dwellings as defined in Section 120-208 of the Zoning Code, mere refusal by the owner and/or occupant to consent to an inspection shall not constitute the sole basis for the issuance of an inspection warrant, nor shall the condition of the area in which the dwelling is located constitute the sole basis for the issuance of an inspection warrant; provided, however, that this provision shall not prevent the issuance of an inspection warrant in circumstances where there are additional factor(s) to support the issuance, including but not limited to cases where the owner and/or occupant has declined to consent to a required inspection when applying for a license, permit, certificate or other City approval.
- (3) The inspection warrant may be requested in the form of an original and two copies.

B. The City shall prepare and attach to its application to the Court a proposed inspection warrant for its consideration which may:

- (1) Be in writing, stating the name of the issuing Court and containing a signature line for the subscription of the issuing judge;
- (2) State the name, department, title and code enforcement authority of the designated City officer or employee authorized to conduct the requested inspection and to whom it is addressed;
- (3) Contain a place for the Court to indicate the time and date the warrant was issued and the duration of the warrant;
- (4) State the limited nature and purpose of the inspection and the manner in which the inspection is to be conducted in order to assure that any observations, findings and evidence obtained through execution of the inspection warrant shall be restricted to use in civil enforcement proceedings only;
- (5) Identify the premises to be entered and inspected in sufficient detail and particularity so that the designated City officer or employee executing the warrant may readily ascertain the premises to be inspected;
- (6) Where specific safety concerns directly related to the premises to be inspected, its owners or occupants are identified, [P]provide that a police officer [, if requested by the designated City officer or employee for safety purposes,] may [assist in] provide protection to the designated City officer or employee during the execution of the inspection warrant;

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- (7) For warrants for inspections of premises containing multiple dwelling units, contain a provision which authorizes a single entry into each unit, which entry need not occur at the same date and time for all units, but which entries must occur before the expiration of the warrant;
- (8) Direct an inspection of the subject premises for civil enforcement purposes only, which inspection may include the photographing, recording or non-destructive testing of property or physical conditions found thereon or therein;
- (9) Direct that the inspection warrant be executed between the hours of 7:00 a.m. and 8:00 p.m., or when the Court has specially so determined based upon the use of the premises at other hours or other special circumstances of the premises, direct execution thereof at other times of the day or night, without the use of force;
- (10) Direct that the inspection warrant authorizing entry to the premises shall be delivered to the occupant at the time of the inspection. The Court may additionally authorize service of the inspection warrant by means of confirmation mail, in which case the inspection warrant shall require the owner and/or occupants to provide the designated City officer or employee with a reasonable date and time to conduct the inspection, which date and time must be within seven (7) days of receipt of the warrant; and
- (11) Contain a notice to the owner and occupants that it is unlawful to willfully deny or unduly delay entry or access to any premises to a designated City officer or employee with an inspection warrant authorizing inspection of said premises, to willfully deny or unduly delay or interfere with the inspection authorized by the warrant, or to willfully fail to timely set a reasonable date and time for an inspection as required by the Court, and that such actions may result in punishment for contempt of court pursuant to Article 19 of the Judiciary Law, which punishment may consist of a fine or imprisonment, or both.

§ 1-24. Execution of an inspection warrant.

- A. Except as provided in Subsection B of this Section, in executing an inspection warrant, the designated City officer or employee authorized by the Court to execute the warrant shall, before entry, make a reasonable effort to present his or her credentials, authority and purpose to an occupant or person in possession of the premises designated in the warrant, and to deliver a copy of the warrant to the occupant or person in possession of the premises.
- B. In executing an inspection warrant, the designated City officer or employee authorized to execute the warrant may promptly enter the designated premises if it is or is reasonably believed to be vacant and unsecured. Such designated City officer or employee need not provide notice of his or her authority and purpose as prescribed in Subsection A of this section.
- C. When authorized in the inspection warrant, [A] a police officer may provide protection to the designated City officer or employee during [be requested to assist in] the execution of the inspection warrant [for safety purposes]. Absent such authorization, a police officer shall not accompany the designated City officer or employee during the inspection of the interior portions of a building not open to the public.
- D. An inspection warrant issued shall be executed within:
 - (1) The time specified in the warrant, not to exceed forty-five (45) days; or
 - (2) If no time is specified therein, within forty-five (45) days from its date of issuance.

§ 1-25. Unlawful actions.

It shall be unlawful for any person to willfully deny or unduly delay entry or access to any premises to a designated City officer or employee with an inspection warrant authorizing inspection of said premises, to willfully deny or unduly delay or interfere with the inspection authorized by the warrant, or after receiving

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a copy of an inspection warrant requiring the scheduling of an inspection, to willfully fail to schedule a reasonable date and time for the inspection as set forth in the inspection warrant. Any person who violates this Section shall be subject to an application to be found in contempt of court pursuant to Article 19 of the Judiciary Law, and punishment as provided for therein may include a fine or imprisonment, or both.

Section 2. This local law shall take effect three weeks after the date of its adoption.

Bracketed material deleted; underlined material added.

Passed by the following vote:

Ayes - President Santiago, Councilmembers Conklin, Lightfoot, Miller, Palumbo, Pritchard, Spaul - 7.

Nays - Councilmembers McFadden, Warren - 2.

Ordinance No. 2009-30
(Int. No. 31, As Amended)

Amending The Municipal Code With Respect To Inspection
Warrants

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. Section 39-210 of the Municipal Code, Performance of work under building permit, as amended, is hereby further amended by deleting the word "search" in both places that it appears in Subsection B thereof and by inserting in its place the word "inspection".

Section 2. Section 40-18 of the Municipal Code, Issuance of a permit, as amended, is hereby further amended by deleting the word "search" in both places that it appears in Subsection E thereof and by inserting in its place the word "inspection".

Section 3. At the end of six months and annually thereafter, a report shall be submitted to the City Council containing information on the premises for which applications were made for inspection warrants and the premises at which inspection warrants were executed, as well as information on the implementation of the inspection warrants local law.

Section 4. This ordinance shall take effect immediately.

Underlined material added.

Passed by the following vote:

Ayes - President Santiago, Councilmembers Conklin, Lightfoot, Miller, Palumbo, Pritchard, Spaul - 7.

Nays - Councilmembers McFadden, Warren - 2.

By Councilmember Warren
February 17, 2009

To the Council:

The Neighborhood & Community Development Committee recommends for Adoption the following entitled legislation:

Int. No. 34 - Authorizing The Sale And Return Of Real Estate And Amending Ordinances No. 2009-19 And 2008-414, As Amended

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Int. No. 35 - Authorizing The Acquisition Of 755 South Plymouth Avenue As A Part Of The Challenged Streets Program

Int. No. 36 - Approving The Granting Of A Permanent Easement Over Former Railroad Right Of Way Adjacent To 65 Versailles Road

Int. No. 37 - Authorizing A Loan Agreement For The Monica Place Rental Housing Project

Int. No. 38 - Approving A Property Tax Exemption And Authorizing An In Lieu Of Tax Agreement For The Monica Place Rental Housing Project

Int. No. 39 - Designating Funds And Authorizing Agreements For The Lead Clearance Test Reimbursement Program

Int. No. 40 - Resolution Approving Appointments To The Electrical Examining Board

Int. No. 41 - Amending Ordinance No. 2004-316, Relating To A Tax Exemption For The Olean & Kennedy Revitalization Project

Int. No. 58 - Authorizing Agreements And Appropriating Funds For The Lead Hazard Control Grant Program

Respectfully submitted,
Lovely A. Warren
Carolee A. Conklin
Gladys Santiago
NEIGHBORHOOD & COMMUNITY DEVELOPMENT COMMITTEE

Received, filed and published.

TO THE COUNCIL
Ladies and Gentlemen:

Ordinance No. 2009-31
Re: Sale of Real Estate

Transmitted herewith for your approval is legislation approving the sale of six properties. With the exception of purchasers of unbuildable vacant land, staff has audited City records to ensure that purchasers do not own other properties with code violations or delinquent taxes. The records of the Division of Code Enforcement were also audited to ensure that purchasers have not been in contempt of court or fined as a result of an appearance ticket during the past five years.

The first property is a buildable lot being sold by sealed bid to the Southwest Area Neighborhood Association, Inc. (SWAN). As part of their Grow Green, Youth Entrepreneur program, SWAN plans to build a greenhouse and potting shed. Area youth will participate in the operation of the greenhouse and the responsibilities associated with growing flowers and crops. Mature vegetables and flowers will then be sold at local fruit stands for the benefit of the neighborhood.

The last five properties are unbuildable vacant lots that are being sold to the adjoining owners for \$1.00. The purchasers will combine the parcels with their adjoining properties.

The first year projected tax revenue for these six properties, assuming full taxation, current assessed valuations and current tax rates, is estimated to be \$2,249.

All City taxes and other charges, except water charges, against properties being sold by the City will be canceled on the first day of the month following adoption of the ordinance because either the City has agreed to convey the properties free of City tax liens and other charges, or these charges have been included in the purchase price.

Respectfully submitted,
Robert J. Duffy

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Mayor

Attachment No. AI-9

Ordinance No. 2009-31
(Int. No. 34, As Amended)

Authorizing The Sale ~~And Return~~ Of Real Estate ~~And Amending~~
Ordinances No. 2009-19 And 2008-414

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Council hereby approves the negotiated sale of the following parcel of vacant land with proposal:

<u>Address</u>	<u>S.B.L.#</u>	<u>Lot Size</u>	<u>Price</u>	<u>Purchaser</u>
268-270 Dr. Samuel McCree Way	120.50-2-25.1	70x115	\$50	*Southwest Area Neighborhood Assoc., Inc.

*Principals: Patricia Jackson, Executive Director; Ronald Allen, President; Calvin Lee, Vice President; Linda Terrell, Secretary; Tony Douglas, Treasurer

Section 2. The Council hereby approves the sale of the following parcels of unbuildable vacant land for the sum of \$1.00:

<u>Address</u>	<u>S.B.L.#</u>	<u>Lot Size</u>	<u>Sq. Ft.</u>	<u>Purchaser</u>
47-49 Arnett Blvd	120.67-3-79	35x100	3,595	Charles McLamore
8 Concord St	106.57-1-17	35x84	2,959	Mae Dickey
19 Bismark Ter	091.78-3-35	36x64	2,329	Steve & Christine DeMay
254 Nichols St	091.84-2-42	39x99	3,948	James & Marta Sabado
817-819 Joseph Ave	091.79-4-54	36x115	4,140	**Upper Room Family Worship Center

**Principals: Pastor Amos L. Simmons; Mark Simmons, Chairperson of Trustees; Deborah Washington, Secretary; Kelvin L. Davis, Deacon; Pearl Dickerson, Church Mother; Terry L. Simmons, Treasurer

Section 3. The Council hereby approves the return of 51 Epworth Street, SBL #120.510-4-18, to its former owner, Ella Louise Hamilton, for the reason that bankruptcy proceedings had been commenced before the County of Monroe acquired said parcel through its tax foreclosure proceedings and deeded it to the City.

Section 4. Ordinance No. 2009-19, authorizing the lease of space in the South Avenue Parking Garage, is hereby amended by changing the name of the lessee from the Hyatt Corporation to AP/AIM Rochester Hotel TRS, LLC.

Section 5. Ordinance No. 2008-414, authorizing a Pure Waters easement, is hereby amended by changing the name of the grantee from the Monroe County Division of Pure Waters to the Rochester Pure Waters District and authorizing the easement to be for combined sewers.

Section [3] 6. City taxes and other City charges, except water charges, against said properties are hereby canceled up to the first day of the month following the date of adoption of this ordinance for the reason that the City has agreed to convey said properties free of City tax liens and other charges or because these charges have been included in the purchase price.

Section [4] 7. This ordinance shall take effect immediately.

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Bracketed material deleted; underlined material added.

Passed unanimously.

TO THE COUNCIL

Ladies and Gentlemen:

Ordinance No. 2009-32
Re: Acquisition of Real Estate -
755 S. Plymouth Avenue

Transmitted herewith for your approval is legislation authorizing the acquisition by negotiation of 755 S. Plymouth Avenue, currently owned by Willie Cowart, as part of the Challenged Streets Initiative. The property has been identified as a blight and is recommended for demolition.

The acquisition amount of \$30,000 was established through an independent appraisal prepared by Steven V. Ferrara, SRA of Pogel, Schubmehl & Ferrara, LLC. The property is a residential single-family structure that will be vacant at closing and therefore no relocation estimates are required

A total cost of \$33,000 is requested to cover the purchase price and closing costs for the acquisition. The cost of acquisition will be funded from 2002-03 Cash Capital.

The goal of the Challenged Streets Program is to target investment resources in neighborhoods that are:

- Of specific concern to residents;
- Have several vacant and blighted properties, with associated public safety issues; and
- Have current development plans in close proximity.

Funding is to be used for the acquisition, rehabilitation and demolition of blighted properties.

City taxes and other charges against the property will be canceled from the date of closing forward. Any taxes levied after the date of closing, while the City still owns the parcel, shall also be canceled.

Respectfully submitted,
Robert J. Duffy
Mayor

Attachment No. AI-10

Ordinance No. 2009-32
(Int. No. 35)

Authorizing The Acquisition Of 755 South Plymouth Avenue As A
Part Of The Challenged Streets Program

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Council hereby approves the acquisition of 755 South Plymouth Avenue, SBL #121.69-2-42, from the current owner, Willie Cowart, for the sum of \$30,000, as a part of the Challenged Streets Program. Said amount, and necessary closing costs, shall be funded from the 2002-03 Cash Capital allocation.

Section 2. City taxes and other current-year charges against said parcel shall be canceled from the date of closing forward. If the present owner has paid any taxes or other current-year charges attributable to the period after the closing, such charges shall be credited to such owner at closing, and may, if appropriate, be refunded. Any taxes levied after the date of closing, while the City still owns the parcel, shall also be canceled.

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Section 3. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL

Ladies and Gentlemen:

Ordinance No. 2009-33
Re: Permanent Easement -
Versailles Road

Transmitted herewith for your approval is legislation authorizing the granting of a permanent easement over a portion of a City-owned property, located on Versailles Road, to Robert and Delia Shannon. The easement area comprises approximately .028 acres of vacant land and is part of the former railroad right-of-way adjacent to 65 Versailles Road. The City acquired this property from CSX Transportation, Inc. in November, 2006. The granting of this easement will allow the owners of 65 Versailles Road access to their garage located at the rear of the property.

The \$900 cost of the easement was established through an independent appraisal prepared by Stephen Ferrara, SRA of Pogel, Schubmehl & Ferrara, LLC.

Respectfully submitted,
Robert J. Duffy
Mayor

Attachment No. AI-11

Ordinance No. 2009-33
(Int. No. 36)

Approving The Granting Of A Permanent Easement Over Former
Railroad Right Of Way Adjacent To 65 Versailles Road

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Council hereby approves the granting of a permanent easement over a portion of a City-owned parcel of former railroad right of way adjacent to 65 Versailles Road, comprising approximately 0.28 acres, to Robert and Delia Shannon for the sum of \$900.

Section 2. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL

Ladies and Gentlemen:

Ordinance No. 2009-34 and
Ordinance No. 2009-35
Re: Monica Place - Rental Housing
Project

Transmitted herewith for your approval is legislation relating to an affordable rental housing project to be undertaken by Pathstone, Inc. (formerly Housing Opportunities Inc.) at Monica Place, 837 Genesee Street. This legislation will:

1. Authorize \$150,000 in HOME funding for both an interest-free construction and a 30-year permanent loan to Monica Homes, LLC at the applicable federal rate, with annual payments of 1% interest;

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2. Authorize a 30-year property tax exemption and payment in-lieu of tax (PILOT) agreement with Housing Opportunities Housing Development Fund Corporation, Inc. equal to 10% of shelter rent minus utilities; and
3. Appropriate \$30,000 from the Rental Housing Fund Account of the 2003-04 HOME Program and \$120,000 from the Rental Housing Fund Account of the 2008-09 HOME Program.

Monica Place, owned by Monica Place Associates and Sojourner Development Corporation, contains 21 units of affordable rental housing for homeless women. The current PILOT agreement provides a tax exemption for all assessed valuation in excess of \$100,000 for a period of 25 years, effective with the 1993 assessment roll.

In February 2008, Housing Opportunities Inc. (now Pathstone) submitted an application to New York State to obtain funding for renovation and debt re-structuring. The City offered a support letter committing funding and a PILOT agreement to accompany the application.

Pathstone was funded for the project for \$2,775,093 and plans to commence construction on March 1, 2009. The development budget is as follows:

City of Rochester loan	\$ 150,000
Federal Home Loan Bank	50,852
Neighborworks	105,000
Tax credit equity	1,275,093
NYS Housing Trust Fund	<u>1,500,000</u>
Total project cost	\$3,080,945

Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-34
(Int. No. 37)

Authorizing A Loan Agreement For The Monica Place Rental
Housing Project

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Mayor is hereby authorized to enter into a loan agreement with Monica Homes, LLC or a limited liability company formed for the Monica Place Rental Housing Project, 837 Genesee Street, SBL #135.26-3-33.2. The loan shall be for a term of 30 years with interest at the applicable Federal rate. Interest in the amount of 1% shall be payable annually. Payment of the additional interest and the principal shall be deferred until the end of the term. The Mayor is authorized to adjust the interest rate and other terms and conditions of the loan in order to conform to legal requirements for tax credits and for the Project.

Section 2. The agreement shall obligate the City of Rochester to pay an amount not to exceed \$150,000, and of said amount, or so much thereof as may be necessary, \$120,000 is hereby appropriated from 2008-09 HOME Program Funds and \$30,000 is hereby appropriated from 2003-04 HOME Program Funds.

Section 3. The agreement shall contain such additional terms and conditions as the Mayor deems to be appropriate.

Section 4. This ordinance shall take effect immediately.

Passed unanimously.

Ordinance No. 2009-35
(Int. No. 38)

February 17, 2009

Approving A Property Tax Exemption And Authorizing An In Lieu
Of Tax Agreement For The Monica Place Rental Housing Project

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. Pursuant to Section 577 of the New York State Private Housing Finance Law, the Council hereby exempts from real property taxes, for a period of 30 years, the property at 837 Genesee Street, SBL #135.26-3-33.2, to be owned by the Housing Opportunities Housing Development Fund Corporation, Inc. or a housing development fund company formed for this Project, and to be used for housing as a part of the Monica Place Rental Housing Project.

Section 2. The Mayor is hereby further authorized to enter into an in-lieu-of-tax payment agreement for a period of thirty years with the housing development fund company, whereby the owner shall be obligated to make annual tax and in-lieu-of-tax payments to the City of Rochester equal in total to at least 10% of its annual "shelter rent". "Shelter rent" shall equal gross rents less utility costs.

Section 3. The agreement shall contain such additional terms and conditions as the Mayor deems to be appropriate.

Section 4. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL
Ladies and Gentlemen:

Ordinance No. 2009-36
Re: Lead Clearance Test Reimbursement
Program

Transmitted herewith for your approval is legislation authorizing the use of \$50,000 from the 2007 HUD Lead-Based Paint Hazard Control Grant to support a reimbursement program for property owners. The \$1,606,710 grant was originally authorized in March 2008 to fund the City's Lead-Based Paint Hazard Control Program.

These funds from the HUD grant will re-capitalize the Lead Clearance Test Reimbursement Program. Property owners cited for a lead-based paint hazard are eligible for reimbursement of the cost of the required lead-based paint clearance test. The program had previously been funded through a grant from the Cities United for Science Program (Ordinance No. 2006-279).

A total of 500 property owners will be assisted. The City will reimburse, up to \$100, property owners who submit satisfactory clearance reports completed by an EPA-certified Risk Assessor. The Neighborhood Service Centers will administer this program.

Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-36
(Int. No. 39)

Designating Funds And Authorizing Agreements For The Lead
Clearance Test Reimbursement Program

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The sum of \$50,000, or so much thereof as may be necessary to fund the Lead Clearance Test Reimbursement Program, shall be funded from the 2007 Lead-Based Paint Hazard Control Grant Program Funds appropriated in Ordinance No. 2008-85.

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Section 2. The Mayor is hereby authorized to enter into such agreements as may be necessary to implement the Lead Clearance Test Reimbursement Program.

Section 3. The agreements shall contain such additional terms and conditions as the Mayor deems to be appropriate.

Section 4. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL

Ladies and Gentlemen:

Resolution No. 2009-4

Re: Appointments - Electrical Examining
Board

Transmitted herewith for your approval is legislation confirming the appointments of David Young, 21 Gardiner Park, Rochester, 14607, and Joel N. Smith, the City's Manager of Plan Review and Building Inspections, to the Electrical Examining Board.

Mr. Young is replacing Daniel E. Conte, whose term expired December 31, 2008. Mr. Young qualifies as an "electrician with at least 10 years practical experience in specialized work involving electrical installations" as required by the City Charter. His term will extend to December 31, 2011.

Mr. Smith is replacing Mr. Young as the designated representative for the Commissioner of Community Development.

Mr. Young's resume is on file in the City Clerk's Office.

Respectfully submitted,
Robert J. Duffy
Mayor

Resolution No. 2009-4
(Int. No. 40)

Resolution Approving Appointments To The Electrical Examining
Board

BE IT RESOLVED, by the Council of the City of Rochester as follows:

Section 1. The Council hereby approves the appointment of David Young, 21 Gardiner Park, to the Electrical Examining Board for a term which shall expire on December 31, 2011. Mr. Young shall replace Daniel E. Conte, whose term has expired.

Section 2. The Council hereby approves the appointment of Joel Smith, Manager of Plan Review and Building Inspection, to the Electrical Examining Board as the designated representative of the Commissioner of Community Development.

Section 3. This resolution shall take effect immediately.

Adopted unanimously.

TO THE COUNCIL

Ladies and Gentlemen:

Ordinance No. 2009-37

Re: Amending Ordinance No. 2004-316,
Olean & Kennedy Revitalization

February 17, 2009

Project

Transmitted herewith for your approval is legislation authorizing an amendment to Ordinance No. 2004-316 by adding 1 Flora Street to the list of properties currently receiving a payment in-lieu-of tax agreement (PILOT). Ordinance No. 2004-316 authorized several actions related to the Olean & Kennedy revitalization project, including a tax exemption and PILOT agreement with the Providence South Plymouth Housing Development Fund Company.

Phase I of the revitalization project, construction of new rental housing on vacant property purchased from the City, was completed by Providence Housing Inc. in 2006. In January 2008, the Providence South Plymouth Housing Development Fund Company Inc, a subsidiary of Providence Housing, Inc., purchased 1 Flora Street, a vacant residential lot. This lot is adjacent to 52-54 Violetta Street, one of the homes built through the Olean & Kennedy project receiving a PILOT agreement. The vacant lot offers green space for the residents of 52-54 Violetta Street and Providence Housing is now requesting that the lot be added to the list of properties receiving a PILOT agreement.

Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-37
(Int. No. 41)

Amending Ordinance No. 2004-316, Relating To A Tax Exemption
For The Olean & Kennedy Revitalization Project

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. Ordinance No. 2004-316, relating to a property tax exemption for the Olean & Kennedy Revitalization Project, as amended, is hereby further amended by adding the parcel at 1 Flora Street, SBL #121.69-3-55.1, to the list of tax exempt parcels in Section 1.

Section 2. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL
Ladies and Gentlemen:

Ordinance No. 2009-38
Re: New York State Lead Hazard
Control Grant

Transmitted herewith for your approval is legislation authorizing an agreement with the New York State Dormitory Authority for the receipt and use of a grant of \$1,500,000 to support the City's Lead Hazard Control program, and authorizing any agreements required to implement the program. This program distributes funds to eligible property owners to correct lead-based paint hazards.

The State funding will enable the City to expand its ability to provide financial assistance to eligible property owners to control lead-based paint hazards in the City's at-risk neighborhoods. The goal of the program is to reduce the incidence of child-lead poisoning. Lead hazard repairs include: window replacement; porch repair/replacement; painting; siding; and bare soil treatment. These funds will be combined with HUD funding as well as funding received from the Greater Rochester Health Foundation to produce an estimated 320 units of lead-safe housing.

This grant was made possible through the efforts of Assemblyman David Gantt.

Respectfully submitted,
Robert J. Duffy
Mayor

February 17, 2009

Ordinance No. 2009-38
(Int. No. 58)

Authorizing Agreements And Appropriating Funds For The Lead
Hazard Control Grant Program

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Mayor is hereby authorized to enter into an agreement with the Dormitory Authority of the State of New York for funding for the Lead Hazard Control Grant Program. The Mayor is hereby further authorized to enter into such agreements as may be necessary to implement the Lead Hazard Control Grant Program.

Section 2. There is hereby appropriated from funds to be received under the grant agreement authorized herein the sum of \$1,500,000, or so much as may be received, to fund the Lead Hazard Control Grant Program.

Section 3. The agreements shall contain such additional terms and conditions as the Mayor deems to be appropriate.

Section 4. This ordinance shall take effect immediately.

Passed unanimously.

By Councilmember Lightfoot
February 17, 2009

To the Council:

The Parks & Public Works Committee recommends for Adoption the following entitled legislation:

Int. No. 42 - Authorizing Extension Of A Professional Services Agreement For The Water Operations Center

Int. No. 43 - Establishing Maximum Compensation For A Professional Services Agreement For The Highland Reservoir Liner Improvement Project

Int. No. 44 - Bond Ordinance Of The City Of Rochester, New York, Authorizing The Issuance Of \$630,000 Bonds Of Said City To Finance Engineering Services For The Highland Reservoir Liner Improvement Project In The City

Int. No. 45 - Establishing Maximum Compensation For A Professional Services Agreement For The Riverside Cemetery Chapel Of Peace Project

Int. No. 48 - Authorizing Agreements With Respect To The Jefferson Road Reconstruction Project

Int. No. 53 - Bond Ordinance Of The City Of Rochester, New York, Authorizing The Issuance Of \$3,799,000 Bonds Of Said City To Finance The Reconstruction Of Certain Streets Related To The 2009 Street Improvement Program

Int. No. 54 - Bond Ordinance Of The City Of Rochester, New York, Authorizing The Issuance Of \$1,750,000 Bonds Of Said City To Finance The Reconstruction Of Various Water Mains In The City Related To The 2009 Street Improvement Program

Int. No. 55 - Bond Ordinance Of The City Of Rochester, New York, Authorizing The Issuance Of \$678,000 Bonds Of Said City To Finance The Cost Of Construction And Reconstruction Of Certain Sewer Improvements Related To The 2009 Street Improvement Program

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Int. No. 56 - Appropriating Funds For The Ashwood Drive Group Improvement Project

Int. No. 59 - Establishing Maximum Compensation For A Professional Services Agreement For The Trinidad Street, Hebard Street And Trinidad Street Parking Lot Improvement Project

Int. No. 61 - Bond Ordinance Of The City Of Rochester, New York, Authorizing The Issuance Of \$328,000 Bonds Of Said City To Finance The Cost Of Construction And Reconstruction Of Certain Streets As A Part Of The Brooks Avenue (Genesee Park Boulevard To West City Line) Improvement Project

Int. No. 62 - Bond Ordinance Of The City Of Rochester, New York, Authorizing The Issuance Of \$157,000 Bonds Of Said City To Finance The Reconstruction Of Various Water Mains In The City Related To The Brooks Avenue (Genesee Park Boulevard To West City Line) Improvement Project

Int. No. 63 - Establishing Maximum Compensation For A Professional Services Agreement And Appropriating Funds For The Brooks Avenue (Genesee Park Boulevard To West City Line) Improvement Project

The Parks & Public Works Committee recommends for Consideration the following entitled legislation:

Int. No. 46 - Local Improvement Ordinance - Snow Removal At The Public Market

Int. No. 47 - Local Improvement Ordinance - Security At The Public Market

Int. No. 11 - Local Improvement Ordinance – Care And Embellishment Of Various Neighborhood Street Malls For 2009-10

Respectfully submitted,
John F. Lightfoot
Adam C. McFadden
Gladys Santiago
PARKS & PUBLIC WORKS COMMITTEE

Received, filed and published.

TO THE COUNCIL
Ladies and Gentlemen:

Ordinance No. 2009-39
Re: Amendatory Agreement -
Water Operations Center

Transmitted herewith for your approval is legislation authorizing an amendatory agreement with LaBella Associates, 300 State Street, for architectural and engineering services for the Water Operations Center, 10 Felix Street. This legislation will extend the term of the original agreement for an additional twelve months, with no additional funding required.

The original agreement for the new Water Operations Center was authorized in February 2004, and is due to expire in March 2009. Construction on the Operations Center was completed in December 2006.

Additional work is required to design and construct an accessory structure for the storage of bulk materials and for related minor on-site improvements. The new structure will provide protection for sand, topsoil, and other bulk materials. It will also provide for year-round availability of materials used for water main construction and repairs. The estimated cost of construction is \$180,000.

Design will continue through Spring 2009, with construction commencing in Summer 2009.

Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-39

February 17, 2009

(Int. No. 42)

Authorizing Extension Of A Professional Services Agreement For
The Water Operations Center

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Mayor is hereby authorized to enter into an extension for an additional twelve months of the professional services agreement between the City and LaBella Associates for architectural and engineering services for the Water Operations Center.

Section 2. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL
Ladies and Gentlemen:

Ordinance No. 2009-40 and
Ordinance No. 2009-41
Re: Agreement - Malcolm Pirnie, Highland
Reservoir Liner Improvements

Transmitted herewith for your approval is legislation establishing \$630,000 as maximum compensation for an agreement with Malcolm Pirnie, 300 State Street, Rochester, NY, for the design of improvements to Highland Reservoir, and authorizing the issuance of \$630,000 in bonds to fund the agreement. This cost has been planned for in the 2008-09 Capital Improvement Plan.

Highland Reservoir was constructed in 1874-76. In June 2008, the reservoir was drained to determine the source of possible leaks. Foundation Design, P.C. was hired for this purpose and concluded that the reservoir had a clay liner that varied in thickness (2"-6") and was insufficient to serve as a reliable lining system. Foundation Design also determined that the reservoir embankment was stable and not in danger of failure. The Water Bureau continues to monitor two areas in Highland Park where moisture may be caused by reservoir water leaks.

This project is part of a larger project for compliance with the U.S. Environmental Protection Agency Long Term 2 Enhanced Surface Water Treatment Regulation that affects all City reservoir systems. A comprehensive evaluation of City reservoirs in 2006 resulted in the development of a multi-phase reservoir improvement program. It is anticipated that all phases of the Reservoir Improvement Program will be completed by 2014. The Highland Reservoir Liner Improvement Project, the first recommended phase, also includes modifications to the water lines that supply the reservoir, and improvements to several aging structures within the reservoir.

Malcolm Pirnie will provide engineering services to develop construction drawings and specifications for installation of a new impermeable reservoir lining system and other related improvements to Highland Reservoir, including construction-phase engineering and Resident Project Representation (RPR) services.

Proposals for these services were solicited from five firms. Responses were received from: O'Brien & Gere, Rochester; Arcadis, Fairport, NY; and Malcolm Pirnie, Rochester. Malcolm Pirnie is recommended given the design team qualifications and experience with reservoir lining systems.

Preliminary design will begin in Spring 2009. Final design is expected to be completed by December 2009 with construction beginning in February 2010.

Respectfully submitted,
Robert J. Duffy
Mayor

Attachment No. AI-12

Ordinance No. 2009-40

February 17, 2009

(Int. No. 43)

Establishing Maximum Compensation For A Professional Services
Agreement For The Highland Reservoir Liner Improvement Project

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The sum of \$630,000, or so much thereof as may be necessary, is hereby established as the compensation to be paid for a professional services agreement between the City and Malcolm Pirnie for design services for the Highland Reservoir Liner Improvement Project. The agreement may extend until six (6) months after completion and acceptance of the construction of the Project. Said amount shall be funded from a bond ordinance adopted for this purpose.

Section 2. This ordinance shall take effect immediately.

Passed unanimously.

Ordinance No. 2009-41

(Int. No. 44)

Bond Ordinance Of The City Of Rochester, New York, Authorizing
The Issuance Of \$630,000 Bonds Of Said City To Finance
Engineering Services For The Highland Reservoir Liner
Improvement Project In The City

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The City of Rochester, in the County of Monroe, New York (herein called "City"), is hereby authorized to finance the cost of engineering services related to the Highland Reservoir Liner Improvement Project in the City, which includes the installation of a liner for the Highland Reservoir, modifications to the water lines that supply the Highland Reservoir, and improvements to structures within the Highland Reservoir (the "Project"). The estimated maximum cost of said class of objects or purposes, including preliminary costs and costs incidental thereto and the financing thereof, is \$630,000, and said amount is hereby appropriated therefor. The plan of financing includes the issuance of \$630,000 bonds of the City to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the City to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 2. Bonds of the City in the principal amount of \$630,000 are hereby authorized to be issued, pursuant to the Constitution and laws of the State of New York, including the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law"), this Ordinance, and other proceedings and determinations related thereto.

Section 3. The City intends to finance, on an interim basis, the costs or a portion of the costs of said improvements for which bonds are herein authorized, which costs are reasonably expected to be reimbursed with the proceeds of debt to be incurred by the City, pursuant to this Ordinance, in the amount of \$630,000. This Ordinance is a declaration of official intent adopted pursuant to the requirements of Treasury Regulation Section 1.150-2.

Section 4. The period of probable usefulness of the class of objects or purposes described in Section 1 of this Ordinance, within the limitations of 11.00 a. 1. of the Law, is forty (40) years.

Section 5. Each of the bonds authorized by this Ordinance and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation of said bonds, shall be general obligations of the City, payable as to both principal and interest by an ad valorem tax upon all the taxable real property within the City without limitation as to rate or amount. The faith and credit of the City are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds and provision shall be made annually in the budget of the City by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

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Section 6. Subject to the provisions of this Ordinance and of said Law, and pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals thereof, and of Sections 50.00, 56.00 to 60.00 and 168.00 of said Law, the powers and duties of the City Council relative to authorizing the issuance of any notes in anticipation of the sale of the bonds herein authorized, or the renewals thereof, and relative to providing for substantially level or declining debt service, prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and of any notes issued in anticipation of the sale of said bonds or the renewals of said notes, as well as to executing agreements for credit enhancement, are hereby delegated to the Director of Finance, as the Chief Fiscal Officer of the City.

Section 7. The validity of the bonds authorized by this Ordinance and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

- (a) such obligations are authorized for an object or purpose for which the City is not authorized to expend money, or
- (b) the provisions of law which should be complied with at the date of the publication of such Ordinance are not substantially complied with, and an action, suit or proceeding contesting such validity, is commenced within twenty (20) days after the date of such publication, or
- (c) such obligations are authorized in violation of the provisions of the Constitution.

Section 8. This Ordinance shall take effect immediately, and the City Clerk is hereby authorized and directed to publish a summary of the foregoing Ordinance, together with a Notice attached in substantially the form prescribed by Section 81.00 of the Law in "The Daily Record", a newspaper published in Rochester, New York, having a general circulation in the City and hereby designated the official newspaper of said City for such publication.

Passed unanimously.

TO THE COUNCIL
Ladies and Gentlemen:

Ordinance No. 2009-42
Re: Agreement - SWBR Architects,
Riverside Cemetery Chapel of Peace

Transmitted herewith for your approval is legislation establishing \$425,000 as maximum compensation for an agreement with SWBR Architects, 387 East Main Street, Rochester for architectural and engineering services for the Riverside Cemetery Chapel of Peace Project. The cost of the agreement will be financed from the 2008-09 Cash Capital allocation of the Department of Environmental Services.

This project will include the design and construction of a new community mausoleum structure and chapel, to complement existing mausoleum structures at the Cemetery. In addition to ground plots and vaults, Riverside Cemetery built two mausoleum structures in 1989. Current programming needs for the community mausoleum dictate a chapel as well as interior and exterior crypt spaces with an anticipated capacity of 1,200-1,500 total spaces.

The Consultant will provide a condition survey and market analysis report; they will be responsible for program development, site evaluation, a site survey and preliminary site plan, as well as schematic design, design development, contract document, bidding phase and construction administration phase services.

Proposals were solicited from eight firms; five responded, including Chaintreuil Jensen Stark Architects, Clark Patterson Lee, CMA Architecture, FRA Engineering and SWBR Architects. Project-specific qualifications of each firm were rated by a team of City staff including DES Architectural Services and the Department of Recreation and Youth Services. Based on their qualifications and approach to the project, SWBR Architects was selected.

Design phase services will begin in Spring 2009, with construction anticipated to begin in Spring 2010, and completion scheduled for Spring 2011.

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Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-42
(Int. No. 45)

Establishing Maximum Compensation For A Professional Services
Agreement For The Riverside Cemetery Chapel Of Peace Project

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The sum of \$425,000, or so much thereof as may be necessary, is hereby established as the compensation to be paid for a professional services agreement between the City and SWBR Architects for architectural and engineering services for the Riverside Cemetery Chapel of Peace Project. The agreement may extend until three (3) months after completion of a two-year guarantee inspection of the project for which the services are provided. Said amount shall be funded from the 2008-09 Cash Capital allocation.

Section 2. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL
Ladies and Gentlemen:

Ordinance No. 2009-43
Re: Jefferson Road (NYS 252)
Reconstruction Project

Transmitted herewith for your approval is legislation related to a State project to reconstruct a portion of Jefferson Road between Marketplace Drive and Ridgeland Road, in the Town of Henrietta. Part of the project will involve the installation of a new blow-off valve assembly on the City's water transmission main (Conduit 1). This legislation will authorize an agreement with the New York State Department of Transportation that will:

1. Provide for the City of Rochester's participation in the project;
2. Provide for reimbursement by the City to NYSDOT of an amount not to exceed \$30,000, for the portion of work related to Conduit 1; and
3. Require the City to provide any necessary maintenance for the valve.

The cost of the City's portion of project work will be funded from 2007-08 (\$17,000) and 2008-09 (\$13,000) Cash Capital (Water Fund).

Construction is scheduled to begin in Spring 2009 and be completed within two years.

Respectfully submitted,
Robert J. Duffy
Mayor

Attachment No. AI-13

Ordinance No. 2009-43
(Int. No. 48)

Authorizing Agreements With Respect To The Jefferson Road
Reconstruction Project

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WHEREAS, Section 10, Subdivision 27 of the New York State Highway Law provides, in part, that the Commissioner of Transportation shall have power, upon the request of the municipality, to perform for and at the expense of such municipality, any work of construction or reconstruction, including the removal and relocation of facilities, provided the Commissioner of Transportation deems it practicable to perform such work in connection with the performance of any work of construction, reconstruction, or improvement; and

WHEREAS, the State of New York is presently preparing contract plans for the Reconstruction of NYS Route 252 (Jefferson Road), Marketplace Drive to Ridgeland Road, S.H. 8443, in the Town of Henrietta, Monroe County, P.I.N. 4046.11.305, which involves construction at the location where the City of Rochester contemplated installation of a new 6" NPS ductile iron blow-off valve; and

WHEREAS, said construction, reconstruction, or improvement can be undertaken in conjunction with the installation of the aforesaid new 6" NPS ductile iron blow-off valve at a substantial ultimate savings to the City of Rochester, and the Council of the City of Rochester, in regular meeting convened, petitions the New York State Department of Transportation as follows;

NOW, THEREFORE, BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Council hereby approves City participation in the Jefferson Road (NYS Route 252) Reconstruction Project. The Council approves the incorporation into the Project of the installation of a new blow-off valve on the City's water transmission main known as Conduit 1, adjacent to the intersection of Jefferson Road (NYS Route 252) and East Henrietta Road (NYS Route 15A). The City agrees to be responsible for the cost of the installation of the blow-off valve and to maintain the new blow-off valve subsequent to its construction.

Section 2. The Mayor is hereby authorized to execute all necessary agreements and documents with the New York State Department of Transportation for City participation in the Project. The agreements and documents shall contain such additional terms and conditions as the Mayor deems to be appropriate.

Section 3. The agreements shall obligate the City to pay an amount not to exceed \$30,000, and of said amount, or so much thereof as may be necessary, \$17,000 shall be funded from the 2007-08 Cash Capital allocation (Water Fund) and \$13,000 shall be funded from the 2008-09 Cash Capital allocation (Water Fund).

Section 4. The City Clerk is directed to transmit six certified copies of this ordinance to the New York State Department of Transportation.

Section 5. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL
Ladies and Gentlemen:

Ordinance No. 2009-44, Ordinance No. 2009-45,
Ordinance No. 2009-46 and Ordinance No. 2009-47
Re: Street Improvement Program

Transmitted herewith for your approval is legislation related to the annual Street Improvement Program. This legislation will:

1. Authorize the issuance of bonds totaling \$3,799,000 and the appropriation of the proceeds thereof to finance portions of the Street Improvement Program;
2. Authorize the issuance of bonds totaling \$1,750,000 and the appropriation of the proceeds thereof to finance Water improvements;
3. Authorize the issuance of bonds totaling \$678,000 and the appropriation of the proceeds thereof to finance Sewer improvements; and

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4. Appropriate \$234,000 from the General Community Needs allocation of the 2008-09 Consolidated Community Development Block Grant program to finance construction of a portion of the Ashwood Drive Group Improvement Project.

This year's Street Improvement Program provides for the resurfacing of approximately 9.15 miles of streets; the rehabilitation or reconstruction of approximately 1.58 miles of residential streets; the replacement of curbs of approximately 3.57 miles on residential streets, and other related improvements as in the attached list of streets.

The proposed request for bonding is consistent with the following Capital Improvement Programs:

<u>Capital Plan</u>	<u>Street</u>	<u>Water</u>	<u>Sewer</u>
2005-06		\$ 147,000	
2006-07	\$ 63,000	1,406,000	
2007-08	320,000	102,000	\$348,000
2008-09	3,416,000	95,000	330,000
2008-09 CDBG	<u>234,000</u>		
Totals	\$4,033,000	\$1,750,000	\$678,000

Respectfully submitted,
Robert J. Duffy
Mayor

Attachment No. AI-14

Ordinance No. 2009-44
(Int. No. 53)

Bond Ordinance Of The City Of Rochester, New York, Authorizing
The Issuance Of \$3,799,000 Bonds Of Said City To Finance The
Reconstruction Of Certain Streets Related To The 2009 Street
Improvement Program

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The City of Rochester, in the County of Monroe, New York (herein called "City"), is hereby authorized to finance the cost of reconstruction of certain streets related to the 2009 Street Improvement Program in the City, including but not limited to the streets contained on the list on file with the City Clerk (the "Project"). The estimated maximum cost of said class of objects or purposes, including preliminary costs and costs incidental thereto and the financing thereof, is \$4,033,000. The plan of financing includes the issuance of \$3,799,000 bonds of the City, and said amount is hereby appropriated therefor, together with the application of \$234,000 appropriated from Community Development Block Grant Funds, and the levy and collection of taxes on all the taxable real property in the City to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 2. Bonds of the City in the principal amount of \$3,799,000 are hereby authorized to be issued, pursuant to the Constitution and laws of the State of New York, including the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law"), this Ordinance, and other proceedings and determinations related thereto.

Section 3. The City intends to finance, on an interim basis, the costs or a portion of the costs of said improvements for which bonds are herein authorized, which costs are reasonably expected to be reimbursed with the proceeds of debt to be incurred by the City, pursuant to this Ordinance, in the amount of \$3,799,000. This Ordinance is a declaration of official intent adopted pursuant to the requirements of Treasury Regulation Section 1.150-2.

Section 4. The period of probable usefulness of said class of objects or purposes described in Section 1 of this Ordinance, within the limitations of 11.00 a. 20. of the Law, is fifteen (15) years.

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Section 5. Each of the bonds authorized by this Ordinance and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation of said bonds, shall be general obligations of the City, payable as to both principal and interest by an ad valorem tax upon all the taxable real property within the City without limitation as to rate or amount. The faith and credit of the City are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds and provision shall be made annually in the budget of the City by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 6. Subject to the provisions of this Ordinance and of said Law, and pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals thereof, and of Sections 50.00, 56.00 to 60.00 and 168.00 of said Law, the powers and duties of the City Council relative to authorizing the issuance of any notes in anticipation of the sale of the bonds herein authorized, or the renewals thereof, and relative to providing for substantially level or declining debt service, prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and of any notes issued in anticipation of the sale of said bonds or the renewals of said notes, as well as to executing agreements for credit enhancement, are hereby delegated to the Director of Finance, as the Chief Fiscal Officer of the City.

Section 7. The validity of the bonds authorized by this Ordinance and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

- (a) such obligations are authorized for an object or purpose for which the City is not authorized to expend money, or
- (b) the provisions of law which should be complied with at the date of the publication of such Ordinance are not substantially complied with, and an action, suit or proceeding contesting such validity, is commenced within twenty (20) days after the date of such publication, or
- (c) such obligations are authorized in violation of the provisions of the Constitution.

Section 8. This Ordinance shall take effect immediately, and the City Clerk is hereby authorized and directed to publish a summary of the foregoing Ordinance, together with a Notice attached in substantially the form prescribed by Section 81.00 of the Law in "The Daily Record", a newspaper published in Rochester, New York, having a general circulation in the City and hereby designated the official newspaper of said City for such publication.

Passed unanimously.

Ordinance No. 2009-45
(Int. No. 54)

Bond Ordinance Of The City Of Rochester, New York, Authorizing
The Issuance Of \$1,750,000 Bonds Of Said City To Finance The
Reconstruction Of Various Water Mains In The City Related To
The 2009 Street Improvement Program

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The City of Rochester, in the County of Monroe, New York (herein called "City"), is hereby authorized to finance the cost of reconstruction of certain water mains related to the 2009 Street Improvement Program in the City, including but not limited to the streets contained on the list on file with the City Clerk (the "Project"). The estimated maximum cost of said class of objects or purposes, including preliminary costs and costs incidental thereto and the financing thereof, is \$1,750,000, and said amount is hereby appropriated therefor. The plan of financing includes the issuance of \$1,750,000 bonds of the City to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the City to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 2. Bonds of the City in the principal amount of \$1,750,000 are hereby authorized to be issued, pursuant to the Constitution and laws of the State of New York, including the provisions of the

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Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law"), this Ordinance, and other proceedings and determinations related thereto.

Section 3. The City intends to finance, on an interim basis, the costs or a portion of the costs of said improvements for which bonds are herein authorized, which costs are reasonably expected to be reimbursed with the proceeds of debt to be incurred by the City, pursuant to this Ordinance, in the amount of \$1,750,000. This Ordinance is a declaration of official intent adopted pursuant to the requirements of Treasury Regulation Section 1.150-2.

Section 4. The period of probable usefulness of the class of objects or purposes described in Section 1 of this Ordinance, within the limitations of 11.00 a. 1. of the Law, is forty (40) years.

Section 5. Each of the bonds authorized by this Ordinance and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation of said bonds, shall be general obligations of the City, payable as to both principal and interest by an ad valorem tax upon all the taxable real property within the City without limitation as to rate or amount. The faith and credit of the City are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds and provision shall be made annually in the budget of the City by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 6. Subject to the provisions of this Ordinance and of said Law, and pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals thereof, and of Sections 50.00, 56.00 to 60.00 and 168.00 of said Law, the powers and duties of the City Council relative to authorizing the issuance of any notes in anticipation of the sale of the bonds herein authorized, or the renewals thereof, and relative to providing for substantially level or declining debt service, prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and of any notes issued in anticipation of the sale of said bonds or the renewals of said notes, as well as to executing agreements for credit enhancement, are hereby delegated to the Director of Finance, as the Chief Fiscal Officer of the City.

Section 7. The validity of the bonds authorized by this Ordinance and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

- (a) such obligations are authorized for an object or purpose for which the City is not authorized to expend money, or
- (b) the provisions of law which should be complied with at the date of the publication of such Ordinance are not substantially complied with, and an action, suit or proceeding contesting such validity, is commenced within twenty (20) days after the date of such publication, or
- (c) such obligations are authorized in violation of the provisions of the Constitution.

Section 8. This Ordinance shall take effect immediately, and the City Clerk is hereby authorized and directed to publish a summary of the foregoing Ordinance, together with a Notice attached in substantially the form prescribed by Section 81.00 of the Law in "The Daily Record", a newspaper published in Rochester, New York, having a general circulation in the City and hereby designated the official newspaper of said City for such publication.

Passed unanimously.

Ordinance No. 2009-46
(Int. No. 55)

Bond Ordinance Of The City of Rochester, New York, Authorizing
The Issuance Of \$678,000 Bonds Of Said City To Finance The Cost
Of Construction And Reconstruction Of Certain Sewer
Improvements Related To The 2009 Street Improvement Program

BE IT ORDAINED, by the Council of the City of Rochester as follows:

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Section 1. The City of Rochester, in the County of Monroe, New York (herein called "City"), is hereby authorized to finance the cost of construction and reconstruction of certain sewer improvements related to the 2009 Street Improvement Program in the City, including but not limited to the streets contained on the list on file with the City Clerk (the "Project"). The total estimated cost of said class of objects or purposes authorized hereby, including preliminary costs and costs incidental thereto and the financing thereof, is \$678,000, and said amount is hereby appropriated therefor. The plan of financing includes the issuance of \$678,000 bonds of the City to finance said appropriation, and the levy and collection of an ad valorem tax on all the taxable real property in the City without limitation as to rate or amount, sufficient to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 2. Bonds of the City in the principal amount of \$678,000 are hereby authorized to be issued pursuant to the Constitution and laws of the State of New York, including the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law"), this Ordinance, and other proceedings and determinations related thereto.

Section 3. The City intends to finance, on an interim basis, the costs or a portion of the costs of said improvements for which bonds are herein authorized, which costs are reasonably expected to be reimbursed with the proceeds of debt to be incurred by the City, pursuant to this Ordinance, in the amount of \$678,000. This Ordinance is a declaration of official intent adopted pursuant to the requirements of Treasury Regulation Section 1.150-2.

Section 4. The period of probable usefulness of said class of objects or purposes for which said bonds authorized pursuant to this Ordinance are to be issued, within the limitations of Section 11.00 a.4 of the Law, is forty (40) years.

Section 5. Each of the bonds authorized by this Ordinance and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation of said bonds, shall be general obligations of the City, payable as to both principal and interest by an ad valorem tax upon all the taxable real property within the City without limitation as to rate or amount. The faith and credit of the City are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds and provision shall be made annually in the budget of the City by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 6. Subject to the provisions of this Ordinance and of said Law, and pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals thereof, and of Sections 50.00, 56.00 to 60.00 and 168.00 of said Law, the powers and duties of the City Council relative to authorizing the issuance of any notes in anticipation of the sale of the bonds herein authorized, or the renewals thereof, and relative to providing for substantially level or declining debt service, prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and of any notes issued in anticipation of the sale of said bonds or the renewals of said notes, as well as to executing agreements for credit enhancement, are hereby delegated to the Director of Finance, as the Chief Fiscal Officer of the City.

Section 7. The validity of the bonds authorized by this Ordinance and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

(a) such obligations are authorized for an object or purpose for which the City is not authorized to expend money, or

(b) the provisions of law which should be complied with at the date of the publication of such Ordinance are not substantially complied with, and an action, suit or proceeding contesting such validity, is commenced within twenty (20) days after the date of such publication, or

(c) such obligations are authorized in violation of the provisions of the Constitution.

Section 8. This Ordinance shall take effect immediately, and the City Clerk is hereby authorized and directed to publish a summary of the foregoing Ordinance, together with a Notice attached in substantially the form prescribed by Section 81.00 of the Law in "The Daily Record", a newspaper

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published in Rochester, New York, having a general circulation in the City and hereby designated the official newspaper of said City for such publication.

Passed unanimously.

Ordinance No. 2009-47
(Int. No. 56)

Appropriating Funds For The Ashwood Drive Group Improvement
Project

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. There is hereby appropriated from the General Community Needs allocation of the 2008-09 Community Development Program the sum of \$234,000, or so much thereof as may be necessary, to fund the Ashwood Drive Group Improvement Project.

Section 2. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL
Ladies and Gentlemen:

Ordinance No. 2009-48
Re: Agreement - Passero Associates,
Trinidad/Hebard Street Improvement
Project

Transmitted herewith for your approval is legislation establishing \$90,000 as maximum compensation for an agreement with Passero Associates for the provision of construction phase design and resident project representation (RPR) Services for the Trinidad Street, Hebard Street, and Trinidad Parking Lot Improvement Project. The cost of the agreement will be financed as follows:

<u>Project</u>	<u>Source</u>	<u>Amount</u>
Street improvements	Bond Ordinance 2007-265	\$23,400
Water improvements	Bond Ordinance 2007-266	5,400
Parking lot improvements	2008-09 Cash Capital	<u>61,200</u>
Total		\$90,000

Design of the Trinidad Street and Hebard Street improvements was done by City staff; Passero provided the design work for the Trinidad parking lot improvements through an agreement authorized by Council in September 2007. The street improvements and parking lot improvements were combined into one project to economize on construction and RPR costs and schedule. The transmittal attachment summarizes City Council action on both projects to date.

The Trinidad Street and Hebard Street portion of the project will include rehabilitation or reconstruction of Trinidad Street from North Union Street to Hebard Street, and Hebard from Trinidad to Wangman Street. Work includes the replacement of concrete sidewalks and driveway aprons, granite curbs, street lighting improvements, drainage improvements, relocation of water utilities, new pavement markings and signage and landscaping improvements.

The Trinidad Parking Lot Improvements include removal of existing pavement and remnant site elements/grading, curb and pavement improvements, drainage, lighting, shared lot line delineation and buffering, right-of-way frontage definition, and landscaping. The project shall also include a new pedestrian gate and walkway into the Public Market at the North Union Street Gateway. The proposed lot will accommodate approximately 300 vehicles.

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Bids for construction were received on January 6, 2009, with Villager Construction as the apparent low bidder at \$937,046. Passero Associates was selected to perform the RPR services because of their previous design services on the parking lot improvements, familiarity with the project, and availability and qualifications of the personnel assigned to the project.

A public meeting for the street improvements was held on June 5, 2006. A public meeting for the Trinidad Parking Lot improvements was held on May 28, 2008. A public informational meeting for the project will be held prior to construction, scheduled to begin Spring 2009, with completion anticipated in late Summer 2009.

Respectfully submitted,
Robert J. Duffy
Mayor

Attachment No. AI-15

Ordinance No. 2009-48
(Int. No. 59)

Establishing Maximum Compensation For A Professional Services
Agreement For The Trinidad Street, Hebard Street And Trinidad
Street Parking Lot Improvement Project

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The sum of \$90,000, or so much thereof as may be necessary, is hereby established as the compensation to be paid for a professional services agreement between the City and Passero Associates for construction phase design and resident project inspection services for the construction of the Trinidad Street, Hebard Street and Trinidad Street Parking Lot Improvement Project. The agreement may extend until three (3) months after completion of a two-year guarantee inspection of the project. Of said amount, \$23,400 shall be funded from Bond Ordinance No. 2007-265, \$5,400 shall be funded from Bond Ordinance No. 2007-266, and \$61,200 shall be funded from the 2008-09 Cash Capital allocation.

Section 2. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL
Ladies and Gentlemen:

Ordinance No. 2009-49, Ordinance No. 2009-50
And Ordinance No. 2009-51
Re: Brooks Avenue Improvement Project
(Genesee Park Blvd.-West City Line)

Transmitted herewith for your approval is legislation related to the Brooks Avenue (Genesee Park Boulevard-West City Line) Public Improvement Project. This legislation will:

1. Authorize the issuance of bonds in the amount of \$328,000 and appropriation of the proceeds thereof to finance a portion of the costs of the street improvements;
2. Authorize the issuance of bonds in the amount of \$157,000 and appropriation of the proceeds thereof to finance the cost of the water improvements;
3. Appropriate \$751,000 in anticipated reimbursements from Monroe County to finance a portion of the costs of the street improvements; and
4. Establish \$175,000 as maximum compensation for a professional services agreement with Hunt Engineers, Architects & Land Surveyors, P.C., Rochester, for resident project representation services. The cost of this agreement will be financed from the bonds requested herein.

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The Brooks Avenue Improvement Project is part of the County-assisted Arterial Improvement Program. In September 2007, Council authorized Hunt Engineers to perform the planning and preliminary engineering and design; the plan was approved by Council in March 2008. The project includes reconstruction of the pavement; replacement of curbs, sidewalks, driveway aprons and streets lights; new water mains on side streets; new hydrants and replacement of water services; new pavement markings, and signal equipment upgrades; topsoil and seeding.

Bids for construction were received on January 29, 2009. The work will be performed by Sealand Contractors Corp. at a cost of \$926,660, which is 29% less than the engineer's estimate. An additional \$134,340 (11%) will be allocated for contingencies which include street lighting costs and other items not included in the contract. This contract includes Apprenticeship Training Program requirements and Public Works Incentive Program provisions as authorized by Council in October 2003.

The costs for the categories of work for the project based upon the bid amount are as follows:

<u>Category</u>	<u>Construction</u>	<u>RPR</u>	<u>Contingency</u>	<u>Total</u>
Street	\$ 115,930	\$ 90,615	\$121,455	\$ 328,000
Water	121,330	22,785	12,885	157,000
County highway	<u>689,400</u>	<u>61,600</u>	<u>0</u>	<u>751,000</u>
Total	\$926,660	\$175,000	\$134,340	\$1,236,000

The cost of the street improvements will be financed from proceeds of the proposed street bond and from anticipated reimbursements from Monroe County. The cost of the water improvements will be financed from proceeds of the proposed water bond.

Hunt Engineers is being recommended for RPR services for the project based on their qualifications and familiarity with the project.

Construction is expected to begin Spring 2009, with completion in Fall 2009. Public informational meetings were conducted on January 30, 2008 and October 22, 2008. The minutes of these meetings are on file in the City Clerk's office.

Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-49
(Int. No. 61)

Bond Ordinance Of The City Of Rochester, New York, Authorizing
The Issuance Of \$328,000 Bonds Of Said City To Finance The Cost
Of Construction And Reconstruction Of Certain Streets As A Part
Of The Brooks Avenue (Genesee Park Boulevard To West City Line)
Improvement Project

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The City of Rochester, in the County of Monroe, New York (herein called "City"), is hereby authorized to finance the cost of the construction and reconstruction of certain streets as a part of the Brooks Avenue (Genesee Park Boulevard to West City Line) Improvement Project in the City (the "Project"). The total estimated maximum cost of said specific object or purpose, including preliminary costs and costs incidental thereto and the financing thereof, is \$1,079,000. The plan of financing includes the issuance of \$328,000 bonds of the City, and said amount is hereby appropriated therefor, together with the application of \$751,000 appropriated from anticipated reimbursements from Monroe County, and the levy and collection of taxes on all the taxable real property in the City to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 2. Bonds of the City in the principal amount of \$328,000 are hereby authorized to be issued, pursuant to the Constitution and laws of the State of New York, including the provisions of the

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Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law"), this Ordinance, and other proceedings and determinations related thereto.

Section 3. The City intends to finance, on an interim basis, the costs or a portion of the costs of said improvements for which bonds are herein authorized, which costs are reasonably expected to be reimbursed with the proceeds of debt to be incurred by the City, pursuant to this Ordinance, in an amount not to exceed the estimated maximum cost. This Ordinance is a declaration of official intent adopted pursuant to the requirements of Treasury Regulation Section 1.150-2.

Section 4. The period of probable usefulness of said specific object or purpose for which said bonds authorized pursuant to this Ordinance are to be issued, within the limitations of 11.00 a. 20(c) of the Law, is fifteen (15) years.

Section 5. Each of the bonds authorized by this Ordinance and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation of said bonds, shall be general obligations of the City, payable as to both principal and interest by an ad valorem tax upon all the taxable real property within the City without limitation as to rate or amount. The faith and credit of the City are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds and provision shall be made annually in the budget of the City by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 6. Subject to the provisions of this Ordinance and of said Law, and pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals thereof, and of Sections 50.00, 56.00 to 60.00 and 168.00 of said Law, the powers and duties of the City Council relative to authorizing the issuance of any notes in anticipation of the sale of the bonds herein authorized, or the renewals thereof, and relative to providing for substantially level or declining debt service, prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and of any notes issued in anticipation of the sale of said bonds or the renewals of said notes, as well as to executing agreements for credit enhancement, are hereby delegated to the Director of Finance, as the Chief Fiscal Officer of the City.

Section 7. The validity of the bonds authorized by this Ordinance and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

- (a) such obligations are authorized for an object or purpose for which the City is not authorized to expend money, or
- (b) the provisions of law which should be complied with at the date of the publication of such Ordinance are not substantially complied with, and an action, suit or proceeding contesting such validity, is commenced within twenty (20) days after the date of such publication, or
- (c) such obligations are authorized in violation of the provisions of the Constitution.

Section 8. This Ordinance shall take effect immediately, and the City Clerk is hereby authorized and directed to publish a summary of the foregoing Ordinance, together with a Notice attached in substantially the form prescribed by Section 81.00 of the Law in "The Daily Record", a newspaper published in Rochester, New York, having a general circulation in the City and hereby designated the official newspaper of said City for such publication.

Passed unanimously.

Ordinance No. 2009-50
(Int. No. 62)

Bond Ordinance Of The City Of Rochester, New York, Authorizing
The Issuance Of \$157,000 Bonds Of Said City To Finance The
Reconstruction Of Various Water Mains In The City Related To The
Brooks Avenue (Genesee Park Boulevard To West City Line)
Improvement Project

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BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The City of Rochester, in the County of Monroe, New York (herein called "City"), is hereby authorized to finance the cost of reconstruction of certain water mains related to the Brooks Avenue (Genesee Park Boulevard to West City Line) Improvement Project in the City (the "Project"). The estimated maximum cost of said class of objects or purposes, including preliminary costs and costs incidental thereto and the financing thereof, is \$157,000, and said amount is hereby appropriated therefor. The plan of financing includes the issuance of \$157,000 bonds of the City to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the City to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 2. Bonds of the City in the principal amount of \$157,000 are hereby authorized to be issued, pursuant to the Constitution and laws of the State of New York, including the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law"), this Ordinance, and other proceedings and determinations related thereto.

Section 3. The City intends to finance, on an interim basis, the costs or a portion of the costs of said improvements for which bonds are herein authorized, which costs are reasonably expected to be reimbursed with the proceeds of debt to be incurred by the City, pursuant to this Ordinance, in the amount of \$157,000. This Ordinance is a declaration of official intent adopted pursuant to the requirements of Treasury Regulation Section 1.150-2.

Section 4. The period of probable usefulness of the class of objects or purposes described in Section 1 of this Ordinance, within the limitations of 11.00 a. 1. of the Law, is forty (40) years.

Section 5. Each of the bonds authorized by this Ordinance and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation of said bonds, shall be general obligations of the City, payable as to both principal and interest by an ad valorem tax upon all the taxable real property within the City without limitation as to rate or amount. The faith and credit of the City are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds and provision shall be made annually in the budget of the City by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 6. Subject to the provisions of this Ordinance and of said Law, and pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals thereof, and of Sections 50.00, 56.00 to 60.00 and 168.00 of said Law, the powers and duties of the City Council relative to authorizing the issuance of any notes in anticipation of the sale of the bonds herein authorized, or the renewals thereof, and relative to providing for substantially level or declining debt service, prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and of any notes issued in anticipation of the sale of said bonds or the renewals of said notes, as well as to executing agreements for credit enhancement, are hereby delegated to the Director of Finance, as the Chief Fiscal Officer of the City.

Section 7. The validity of the bonds authorized by this Ordinance and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

- (a) such obligations are authorized for an object or purpose for which the City is not authorized to expend money, or
- (b) the provisions of law which should be complied with at the date of the publication of such Ordinance are not substantially complied with, and an action, suit or proceeding contesting such validity, is commenced within twenty (20) days after the date of such publication, or
- (c) such obligations are authorized in violation of the provisions of the Constitution.

Section 8. This Ordinance shall take effect immediately, and the City Clerk is hereby authorized and directed to publish a summary of the foregoing Ordinance, together with a Notice attached in substantially the form prescribed by Section 81.00 of the Law in "The Daily Record", a newspaper

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published in Rochester, New York, having a general circulation in the City and hereby designated the official newspaper of said City for such publication.

Passed unanimously.

Ordinance No. 2009-51
(Int. No. 63)

Establishing Maximum Compensation For A Professional Services
Agreement And Appropriating Funds For The Brooks Avenue
(Genesee Park Boulevard to West City Line) Improvement Project

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The sum of \$175,000, or so much thereof as may be necessary, is hereby established as the compensation to be paid for a professional services agreement between the City and Hunt Engineers, Architects & Land Surveyors, P.C. for resident project representation services related to the Brooks Avenue (Genesee Park Boulevard to West City Line) Improvement Project. The agreement may extend until three (3) months after completion of a two year guarantee inspection of the Project. Of said amount, \$90,615 shall be funded from a bond adopted for street purposes, \$22,785 shall be funded from a bond adopted for water purposes, and \$61,600 shall be funded from the appropriation made in Section 2.

Section 2. There is hereby appropriated from anticipated reimbursements from the County of Monroe the sum of \$751,000, or so much thereof as may be necessary, to fund construction of the Brooks Avenue (Genesee Park Boulevard to West City Line) Improvement Project.

Section 3. This ordinance shall take effect immediately.

Passed unanimously.

TO THE COUNCIL
Ladies and Gentlemen:

Local Improvement Ordinance No. 1594
And Local Improvement Ordinance No. 1595
Re: Public Market Snow Removal and
Security Services

Transmitted herewith for your approval is legislation authorizing the appropriations and assessments for snow removal and security services at the Public Market. The snow removal and security districts were established in 1990 and 1991, respectively, and include fifteen properties adjacent to the Public Market.

The City provides special snow removal and security services, including plowing and salting, as necessary. The security services include foot patrols from 5:00 p.m. to 5:00 a.m. on Monday through Saturday and all day Sunday and certain holidays. Part of the cost of these services is apportioned among the properties within the district. For each property, these assessments include both a fixed fee, and a fee per frontage foot.

Snow Removal

In 2009-10, the fees for snow removal services will be: \$100 per property, plus \$2.68 per foot, which is an increase from the \$2.60 fee for 2008-09. The total assessment for 2009-10 is \$5,406.98, \$116.61 more than the 2008-09 amount.

Fixed Fee	\$ 100	Footage Fee	\$ 2.68
Properties	<u>x 15</u>	Footage	<u>x 1,457.83</u>
Total	\$1,500	Total	\$ 3,906.98

Security Services

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Fees for security services remain the same for 2009-10; the fixed fee is \$1,190 per property, and the front footage fee remains at \$8.93 per foot. The total amount of the assessment will be \$30,868.42.

Fixed Fee	\$ 1,190	Footage Fee	\$ 8.93
Properties	<u>x 15</u>	Footage	<u>x 1,457.83</u>
Total	\$17,850	Total	\$13,018.42

Public hearings on the assessments are required.

Respectfully submitted,
Robert J. Duffy
Mayor

Local Improvement Ordinance No. 1594
(Int. No.46)

Local Improvement Ordinance - Snow Removal At The Public
Market

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Council authorizes special snow plowing and salting services for the Public Market during the fiscal year from July 1, 2009 to June 30, 2010.

Section 2. The Council hereby finds that such services will benefit both the City-owned portions of the Public Market and the privately-owned properties adjacent to the Public Market. The Council directs that a portion of the cost of providing such services be assessed against the privately-owned properties adjacent to the Public Market as listed below, which properties shall constitute the district of assessment. The total amount to be assessed for the 2009-10 year shall be \$5,406.98. The amount to be assessed against each parcel shall include a fee of one hundred dollars (\$100.) per parcel plus two dollars and sixty eight cents (\$2.68) per foot of frontage that receives plowing and/or salting services. The frontage may be on more than one side of the parcel. The Council hereby determines that such formula represents the relative amount of benefit received by each such parcel from such services. The parcels to be assessed are as follows:

<u>Property Address</u>	<u>SBL No.</u>	<u>Front Footage</u>
248 N. Union St.	106.660-0001-014	558.27
171 Railroad St.	106.670-0001-078	190.25
60 Public Market	106.590-0003-008	40
64-66 Public Market	106.590-0003-009	40
68-70 Public Market	106.590-0003-010	40
50-52 Public Market	106.590-0003-006	40
55-57 Public Market	106.590-0003-007	40
59 Pennsylvania Ave.	106.590-0003-005.1	81.50
35 Pennsylvania Avenue	106.590.0003-002.1	120
16-18 Public Market	106.590-0003-001	40
25 Pennsylvania Avenue	106.580-0003-026	40
17-23 Pennsylvania Avenue	106.580-0003-027	40
15 Pennsylvania Avenue	106.580-0003-028	40
11 Pennsylvania Avenue	106.580-0003-029	19.57
9 Pennsylvania Avenue	106.580-0003-030	128.24

Section 3. The snow plowing and salting services shall be provided by competitive contract. The special assessments levied hereunder shall be paid into the Public Market Enterprise Fund. The cost of providing such services shall be paid from the Public Market Enterprise Fund and the amounts assessed herein are hereby appropriated for that purpose.

Section 4. The assessments shall be billed on the tax bill issued on July 1, 2009 and shall be due in one installment.

Section 5. This ordinance shall take effect on July 1, 2009.

February 17, 2009

Passed unanimously.

Local Improvement Ordinance No. 1595
(Int. No. 47)

Local Improvement Ordinance - Security At The Public Market

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Council authorizes special security services for the Public Market during the fiscal year from July 1, 2009 to June 30, 2010.

Section 2. The Council hereby finds that such services will benefit both the City-owned portions of the Public Market and the privately-owned properties adjacent to the Public Market. The Council directs that a portion of the cost of providing such services be assessed against the privately-owned properties adjacent to the Public Market as listed below, which properties shall constitute the district of assessment. The total amount to be assessed for the 2009-10 year shall be \$30,868.42. The amount to be assessed against each parcel shall include a fee of one thousand one hundred ninety dollars (\$1,190.) per parcel plus eight dollars and ninety-three cents (\$8.93) per foot of frontage. The frontage may be on more than one side of the parcel. The Council hereby determines that such formula represents the relative amount of benefit received by each such parcel from such services. The parcels to be assessed are as follows:

<u>Property Address</u>	<u>SBL No.</u>	<u>Front Footage</u>
248 N. Union St.	106.660-0001-014	558.27
171 Railroad St.	106.670-0001-078	190.25
60 Public Market	106.590-0003-008	40
64-66 Public Market	106.590-0003-009	40
68-70 Public Market	106.590-0003-010	40
50-52 Public Market	106.590-0003-006	40
55-57 Public Market	106.590-0003-007	40
59 Pennsylvania Ave.	106.590-0003-005.1	81.50
35 Pennsylvania Avenue	106.590.0003-002.1	120
16-18 Public Market	106.590-0003-001	40
25 Pennsylvania Avenue	106.580-0003-026	40
17-23 Pennsylvania Avenue	106.580-0003-027	40
15 Pennsylvania Avenue	106.580-0003-028	40
11 Pennsylvania Avenue	106.580-0003-029	19.57
9 Pennsylvania Avenue	106.580-0003-030	128.24

Section 3. The security services shall be provided by competitive contract. The special assessments levied hereunder shall be paid into the Public Market Enterprise Fund. The cost of providing such services shall be paid from the Public Market Enterprise Fund and the amounts assessed herein are hereby appropriated for that purpose.

Section 4. The assessments shall be billed on the tax bill issued on July 1, 2009 and shall be due in one installment.

Section 5. This ordinance shall take effect on July 1, 2009.

Passed unanimously.

Introductory No. _____ was introduced _____ and appears in its original form with its transmittal letter on page _____ of the current Council Proceedings.

Local Improvement Ordinance No. 1596
(Int. No. 11)

February 17, 2009
Local Improvement Ordinance - Care And Embellishment Of
Various Neighborhood Street Malls For 2009-10

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. It is hereby determined that the following improvements and work are necessary, required and shall be made:

- a. The care and embellishment of the following streets hereinafter referred to as "Group I" during 2009-10:

GROUP I	Boulevard Parkway	\$ 2,129
	Burke Terrace	467
	Carthage Drive	589
	Central Park	5,331
	Elmwood Mall	3,315
	Glendale Park	1,774
	Knickerbocker Street	1,774
	Nye Park	1,893
	Raines Park	1,182
	Seneca Parkway	12,790
	Sumner Park	3,078
	Werner Park	<u>2,129</u>
Group I Total		\$36,451

- b. The care and embellishment of the following streets hereinafter referred to as "Group II" during 2009-10:

GROUP II	Arnold Park	\$ 2,800
	Hazelwood Terrace	1,630
	Highland Parkway	2,100
	Hillside Avenue	6,000
	Huntington Park	3,600
	Lafayette Park	2,832
	Lakeview Park	4,800
	Nunda Boulevard	6,650
	Oxford Street	7,062
	Portsmouth Terrace	2,500
	Rundel Park	2,000
	Sibley Place	<u>2,860</u>
Group II Total		<u>\$44,834</u>
Grand Total		\$81,285

Section 2. The district of assessment for each street mall shall consist of all the parcels of property that front on the mall, or on any extension of the street or streets containing the mall up to the next intersecting street. The cost of maintenance of each street mall, in the amount set forth in Section 1, shall be apportioned among the parcels in the district based on each parcel's footage along the street containing the mall.

Section 3. Assessments for the cost of such improvements and work shall be due in one payment and shall be added to the tax rolls for the fiscal year commencing July 1, 2009.

Section 4. The total cost of such improvements and work, estimated at \$81,285, shall be charged as heretofore described in this ordinance and paid from the General Fund, and said amount, or so much thereof as may be necessary, is hereby appropriated for the aforesaid purpose.

Section 5. The work described for Group I shall be performed by or at the direction of the Department of Recreation and Youth Services.

Section 6. It is hereby determined that it is impracticable to have the work described herein for Group II done by competitive contract. Therefore, contracts for the work described herein for Group II may

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be awarded to such qualified persons or neighborhood associations as may be selected from those located in or adjacent to the aforementioned streets and areas.

Section 7. This ordinance shall take effect immediately.

Passed unanimously.

By Councilmember Miller
February 17, 2009

To the Council:

The Economic Development & The Environment Committee recommends for Adoption the following entitled legislation:

Int. No. 49 - Establishing Maximum Compensation For An Amendatory Professional Services Agreement For The Jefferson Avenue Revitalization Project, As Amended

Int. No. 50 - Authorizing A Grant Agreement And Amending The 2008-09 Budget For The High Falls Centers

Int. No. 51 - Establishing Maximum Compensation For Amendatory Professional Services Agreements For Midtown Plaza

Respectfully submitted,
Dana K. Miller
John F. Lightfoot
Elaine M. Spaul
Gladys Santiago
William F. Pritchard
ECONOMIC DEVELOPMENT & THE ENVIRONMENT COMMITTEE

Received, filed and published.

TO THE COUNCIL
Ladies and Gentlemen:

Ordinance No. 2009-52
Re: Amendatory Agreement - Ingalls
Planning & Design

Transmitted herewith for your approval is legislation authorizing an amendatory agreement with Ingalls Planning & Design (Principal, Matt Ingalls), for continued consulting services related to planning for the Jefferson Avenue Revitalization Project. This amendment will increase maximum compensation by \$2,400 and extend the term of the agreement from May 18 to June 30, 2009. The additional cost will be funded from the 2008-09 Budget of the Economic Development Department.

The original agreement for these consulting services was authorized by Council in May 2008 and established \$20,000 as maximum compensation. Ingalls Planning & Design has provided services for the visioning and design phases of the project. Additional work will include the completion of the economic analysis phase, and the final action plan for Jefferson Avenue that will guide continuing development.

Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-52

February 17, 2009

(Int. No. 49, As Amended)

Establishing Maximum Compensation For An Amendatory
Professional Services Agreement For The Jefferson Avenue
Revitalization Project

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The sum of \$[2,400] 3,000, or so much thereof as may be necessary, is hereby established as the compensation to be paid for an amendatory professional services agreement with Ingalls Planning and Design for planning services for the Jefferson Avenue Revitalization Project. Said amount shall be funded from the 2008-09 Budget of the Economic Development Department.

Section 2. This ordinance shall take effect immediately.

Bracketed material deleted; underlined material added.

Passed unanimously.

TO THE COUNCIL
Ladies and Gentlemen:

Ordinance No. 2009-53
Re: High Falls Centers Grant

Transmitted herewith for your approval is legislation authorizing an agreement with the New York State Office of Parks, Recreation and Historic Preservation for the receipt and use of a \$7,000 grant; and amending the 2008-09 budget of the Department of Economic Development to reflect the grant.

The funds will be used solely and directly for maintenance and repairs to the High Falls Centers Interpretive Center Museum Exhibits located at 60 Brown's Race in Rochester, NY 14614.

The grant was received by the City in December 2008; repairs must be completed and paid for by March 30, 2009.

Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-53
(Int. No. 50)

Authorizing A Grant Agreement And Amending The 2008-09
Budget For The High Falls Centers

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Mayor is hereby authorized to enter into an agreement with the New York State Office of Parks, Recreation and Historic Preservation for funding for maintenance and repairs to the High Falls Centers Interpretive Center Museum Exhibits.

Section 2. Ordinance No. 2008-198, the 2008-09 Budget of the City of Rochester, as amended, is hereby further amended by increasing the revenue estimates and appropriations to the Economic Development Department by the sum of \$7,000, which amount is hereby appropriated from funds received through the grant agreement authorized herein.

Section 3. This ordinance shall take effect immediately.

Passed unanimously.

February 17, 2009

TO THE COUNCIL
Ladies and Gentlemen:

Ordinance No. 2009-54
Re: Midtown Revitalization Project

Transmitted herewith for your approval is legislation related to the Midtown Plaza Revitalization Project. This legislation will:

1. Authorize an amendatory agreement with Broadstone Real Estate, LLC to increase maximum compensation by \$300,000 and extend the term of the agreement to August 31, 2009 for continued management of the Midtown properties. This will bring maximum compensation to a total of \$750,000.
2. Authorize an amendatory agreement with R. K. Hite & Co., Inc. and Flaum Management, Inc. to increase maximum compensation by \$43,000 and extend the term of the agreement by an additional 12 months for the continuation of relocation, planning and advisory services for Midtown Plaza tenants. This will bring maximum compensation to a total of \$298,100.

These additional costs will be funded from the 2008-09 Cash Capital allocations for acquisition and development, and for management and operation of the Midtown Plaza properties.

Ordinance No. 2008-152 authorized the appropriation of \$900,000 for management and operation of the Plaza through December 31, 2008, when it was anticipated that the properties would be vacated. The same legislation authorized \$300,000 for an agreement with Broadstone for management services.

In September 2008, the Broadstone agreement was amended to increase compensation by \$150,000 when it became clear that several tenants could not vacate the premises by December 31, 2008. That additional cost was covered by the original \$900,000 appropriation.

The amendments requested herein are required to cover services through August 2009. One tenant, Clear Channel, will occupy the property through April 2009, and a second tenant, Trailways, may occupy the property through August 2009. Also, the date for commencement of asbestos removal and demolition has not yet been established by Empire State Development. Once that work begins, operating costs will be transferred to the budget set by Empire State Development.

The original agreement with R.K. Hite & Co., Inc. and Flaum Management, Inc. (per Ordinance No. 2007-481), established \$255,100 as maximum compensation for relocation services for the 50 tenants of Midtown Plaza. The following summarizes progress to date with tenants:

Tenants declining benefits	1
Tenants vacated prior to eligibility	2
Tenants with processed claims	39
Tenants with claims being prepared	3
Tenants with claims to be prepared	5

Due to the complexity of many of the business relocations and the need for strict compliance with federal relocation guidelines, additional funds are required for payment of past services rendered and to complete the relocation of the remaining four tenants.

Respectfully submitted,
Robert J. Duffy
Mayor

Attachment No. AI-16

Ordinance No. 2009-54
(Int. No. 51)

Establishing Maximum Compensation For Amendatory Professional
Services Agreements For Midtown Plaza

February 17, 2009

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The sum of \$300,000, or so much thereof as may be necessary, is hereby established as the compensation to be paid for an amendatory professional services agreement with Broadstone Real Estate, LLC for management of the Midtown Plaza properties. Said amount shall be funded from the 2008-09 Cash Capital allocation.

Section 2. The sum of \$43,000, or so much thereof as may be necessary, is hereby established as the compensation to be paid for an amendatory professional services agreement between the City and Flaum Management, Inc. and R.K. Hite & Co., Inc. for relocation planning and advisory services for Midtown Plaza tenants as a part of the Midtown Plaza Revitalization Project. Said amount shall be funded from the 2008-09 Cash Capital allocation.

Section 3. This ordinance shall take effect immediately.

Passed unanimously.

By Councilmember McFadden
February 17, 2009

To the Council:

The following entitled legislation is being Held in the Public Safety & Recreation Committee:

Int. No. 52 - Establishing Maximum Compensation For A Professional Services Agreement For The
"Party In The Park" Concerts

Respectfully submitted,
Adam C. McFadden
Dana K. Miller
Elaine M. Spaul
Gladys Santiago
William F. Pritchard
PUBLIC SAFETY & RECREATION COMMITTEE

Received, filed and published.

Councilmember McFadden moved to discharge Int. No. 52 from committee.

The motion was seconded by Councilmember Lightfoot.

The motion was adopted by the following votes:

Ayes - President Santiago, Councilmembers Conklin, Lightfoot, McFadden, Miller, Palumbo, Pritchard, Spaul, Warren - 9.

Nays - None - 0.

TO THE COUNCIL
Ladies and Gentlemen:

Re: Ordinance No. 2009-55
Agreement - The Springut Group,
Party in the Park Concert Series

February 17, 2009

Transmitted herewith for your approval is legislation establishing \$100,000 as maximum compensation for an agreement with The Springut Group (principal: Jeffrey Springut), Rochester, for booking national and regional artists for the 2009 "Party in the Park" concert series. The cost of this agreement will be financed from the Rochester Events Network trust fund (\$76,000) and the 2009-10 Budget of the Department of Communications (\$24,000).

The ten concerts will be held on nine Thursdays and one Friday between June 11 and August 6, 2009 at the Riverside Festival Site (corner of Exchange Boulevard and Court Street). For each concert, The Springut Group will provide artists for all opening and headline acts. It will also provide a production manager and hospitality for the artists.

A request for proposals was issued in December 2008 directly to event promoters in the Rochester area, and that the City has had agreements with during the past four years. The RFP was also posted on the City's website. Responses were received from four Rochester firms: The Springut Group; Upstate Cats Entertainment, Beau Productions; and Up All Night Productions. An interdepartmental review committee evaluated proposals using the following criteria: relevant experience and success in outdoor event production, references, and a revenue sharing proposal. Based on evaluations, The Springut Group was selected.

In 2008, this free concert series attracted an average of 4,000 per event, with the largest crowd numbering over 6,500. As in past years, this agreement will contain a revenue sharing component, providing The Springut Group exclusive rights to food and beverage vending in exchange for set rates of food and beverage volume sold.

In the past nine years, the City was provided 25% of the net revenue from food and beverage sales. In 2008, a total of \$32,868 was received by the City for the ten-event series.

Respectfully submitted,
Robert J. Duffy
Mayor

Ordinance No. 2009-55
(Int. No. 52)

Establishing Maximum Compensation For A Professional Services
Agreement For The "Party In The Park" Concerts

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The sum of \$100,000, or so much thereof as may be necessary, is hereby established as the compensation to be paid for a professional services agreement between the City and The Springut Group for talent booking services for the "Party in the Park" concert series. Of said amount, \$76,000 is hereby appropriated from the Rochester Events Network Trust Fund and \$24,000 shall be funded from the 2009-10 Budget of the Bureau of Communications, contingent upon approval of said budget. The agreement shall also provide The Springut Group exclusive rights to vend food and beverages to the public at the "Party in the Park" concert series, in exchange for the sharing of certain revenue from the food and beverage sales with the City.

Section 2. This ordinance shall take effect immediately.

Passed unanimously.

The meeting was adjourned at 8:55 P.M.

DANIEL B. KARIN
City Clerk